96-106

OIL IMPORT FEES: THE ADMINISTRATION OF THE PROGRAM AND ITS IMPACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

APRIL 24; MAY 9, 14, 1980

Serial 96–106

Printed for the use of the Committee on Ways and Means

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OIL IMPORT FEES: THE ADMINISTRATION OF THE PROGRAM AND ITS IMPACT

THURSDAY, APRIL 24, 1980

House of Representatives,
Committee on Ways and Means,
Subcommittee on Trade,
Washington, D.C.

The subcommittee met at 10:05 a.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. Charles A. Vanik (chairman of the subcommittee) presiding.

Mr. **Vanik**. Today's hearing is to obtain information on the rationale for and administration of the administration's oil import fee program, proclaimed by the President on March 14.

The oil import fee is an exercise of the President's authority under section 232 of the Trade Expansion Act of 1962, a legal authority under the jurisdiction of this subcommittee. The President is also using legal authorities provided by the Emergency Petroleum Allocation Act of 1973 to concentrate the impact of the fee on gasoline prices. This is an area which is under the jurisdiction of the House Interstate and Foreign Commerce Committee, and therefore we have asked the members of Chairman Dingell's subcommittee to sit with us today.

We are pleased to have with us today Secretary of Energy Duncan.

Before starting, let me note that a number of bills and resolutions have been or soon will be introduced to retroactively eliminate the President's authority to impose import fees or quotas or to disapprove the specific actions which he took on March 14. Over 100 Members of the House are already sponsoring these proposals, and I suspect that a majority of the House may soon be supporting such legislative initiatives. We will hear in early May from about a dozen witnesses whom we could not schedule today. This will be followed promptly by a markup of resolutions pending before the subcommittee, on the first available day provided by the full committee.

Therefore, Mr. Secretary, I believe that we will soon be voting on these various proposals. You face an uphill task today of defending the President's action and explaining why it should not be reversed.

Although I have an open mind on these various legislative initiatives, I feel it is urgent to adopt a policy which will restrain imports and slow down the frequent price escalations by OPEC.

I believe in a balanced budget. I believe that the revenues that will be raised by this import fee will prove to be largely necessary in order to balance the fiscal year 1981 budget. I intend to ask all witnesses today who oppose the President's plan how they would balance the budget without the revenues provided by this fee.

Second, if this fee is eliminated, there will be no funds whatsoever to reduce the coming social security tax increase. I would rather proceed with a budget-balancing, import-reducing fee on oil in order to have some revenues to slow the rise in social security taxes.

Third, the fee does reduce the use of imported oil. True, only about 50,000 to 100,000 barrels a day—but the move toward conservation and energy independence is made up of a series of small steps—and this step combines energy reduction with budget balancing revenues. I intend to ask opponents of the fee what they would do in the coming year to reduce oil imports by 100,000 barrels a day.

In my career in the Congress, I have made a long study of oil policy. My statements on the subject go back to the mid-1950's when I opposed the use of the foreign tax credit to transfer American wealth to the oil sheiks of the Middle East. I opposed President Eisenhower's mandatory oil import program in 1959, an action which I labeled Price Control Order No. 1, and which drained away precious American petroleum and denied the consumer the benefit of incredibly cheap foreign oil. As a result of a quarter of a century of study and protests, I am sure of one thing: Imported oil prices are set by a cozy relationship between the oil companies and foreign host countries. Since the oil producing nations are determined to charge consumers whatever the market can bear, the import fee may serve to capture for the public some of the price escalation which would otherwise escape overseas in windfall profits to foreign producers and the oil companies.

It makes more sense to me to impose fees on imported oil so that our reliance on it is reduced and so that money is brought into the Treasury to help the Federal Government solve other problems. All other nations tax oil and its products. In France, the price of regular gasoline is $2.59 and the Treasury receives $1.95; in Korea the price is $4.60, with the public treasury receiving most of that price in revenues. We too should collect oil revenues. The issue is, do we give more and more tribute to OPEC or do we begin to build the muscle of the American Government and American people to solve problems and break free of OPEC's stranglehold.

The May 15 inflationary increase of gasoline prices will be more than offset in the long run because it will reduce oil import demand pressures, and thus help result in stabilization of world oil prices.

The action the President has taken is difficult; it is a courageous action in an election year. It is an action which by reducing imports and balancing the budget, will strengthen the dollar and reduce the probability of future OPEC oil price increases for ourselves and our allies. The oil import fee is an act of leadership; I would ask all opponents of the plan to explain what they would do if they were President to reduce oil imports and balance the budget.

Do any members have any statements they wish to make?

I would like to include at this point in the record, background material on this issue.

[The material referred to follows:]

[Press release of Apr. 15, 1980]

Chairman Charles A. Vanik, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Announces Hearings on Oil Import Fees: The Administration of the Program and Its Impact

Congressman Charles A. Vanik, Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives today announced that the Subcommittee will be holding hearings on April 24, 1980 on the oil import fee action announced by the President. The first hearing will start at 10:00 a.m. in 1100 Longworth House Office Building. Additional hearings, if required, will be announced at a later date.

The hearings will involve testimony from the Administration and the public on:

how the import fee program will be administered (how the price increase will be limited to gasoline only);

its estimated impact on various sectors of the economy and regions of the nation;

the duration of the fee;

its effect on the international trade competitiveness of various American industries;

its impact on the demand for imported energy;

its impact on the auto industry during that industry's current period of structural adjustment; and

its impact on domestic oil prices.

Officials from interested Executive branch agencies will be the first witnesses. Secretary of Energy Duncan is tentatively schedule to testify. Testimony will be received by the Subcommittee from the interested public following the appearances of the Executive branch witnesses.

In view of the limited time available, witnesses will be allocated 5 minutes to summarize their written statements. The full statement will be included in the printed record. Also, in lieu of a personal appearance, any interested person or organization may file a written statement for inclusion in the printed record.

Requests to be heard must be received by the Committee by the close of business April 22. The request should be telephoned to John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515; telephone: (202) 225-3625.

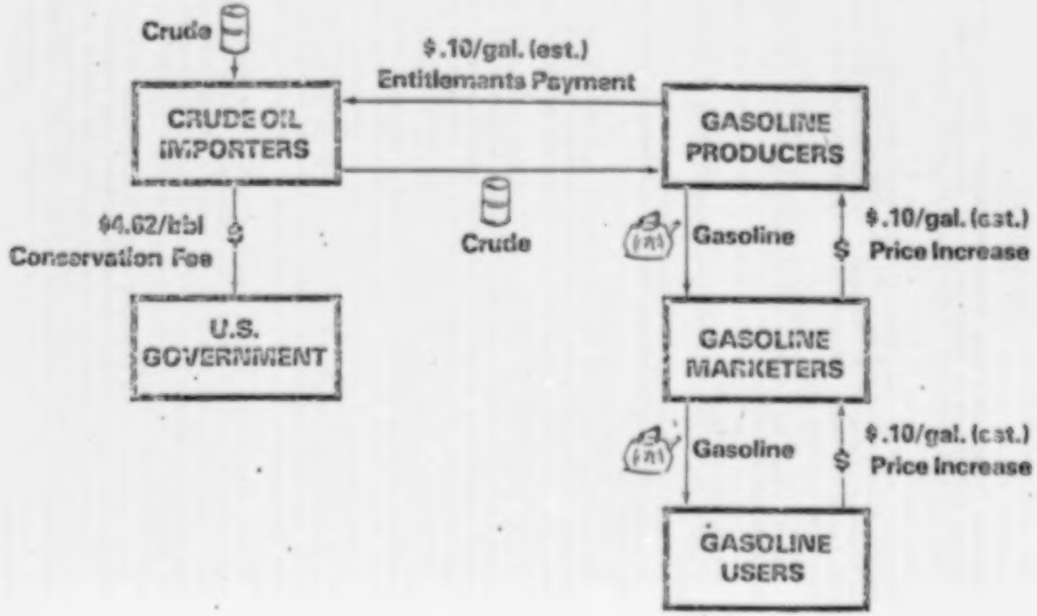
In this instance, it is requested that persons scheduled to appear and testify submit 50 copies of their prepared statements to the Committee office, Room 1102 Longworth House Office Building, the morning of the hearing. These statements are for the use of the Subcommittee Members and staff. Persons who wish their statement distributed to the press should bring to the hearing at least 75 additional copies.

Persons submitting a written statement in lieu of a personal appearance should submit at least three (3) copies of their statement by the close of business May 1, 1980. If those filing statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may submit 100 additional copies for this purpose if provided to the Committee during the course of the public hearing.

Each statement to be presented to the Subcommittee or any written statement submitted for the record must contain the following information:

1. The name, full address and capacity in which the witness will appear.
2. The list of persons or organizations the witness represents, and in the case of associations, their total membership and where possible, a membership list.
3. A topical outline or summary of the comments and recommendations in the full statement.

OPERATION OF
Gasoline Conservation Fee
ENTITLEMENTS PROGRAM



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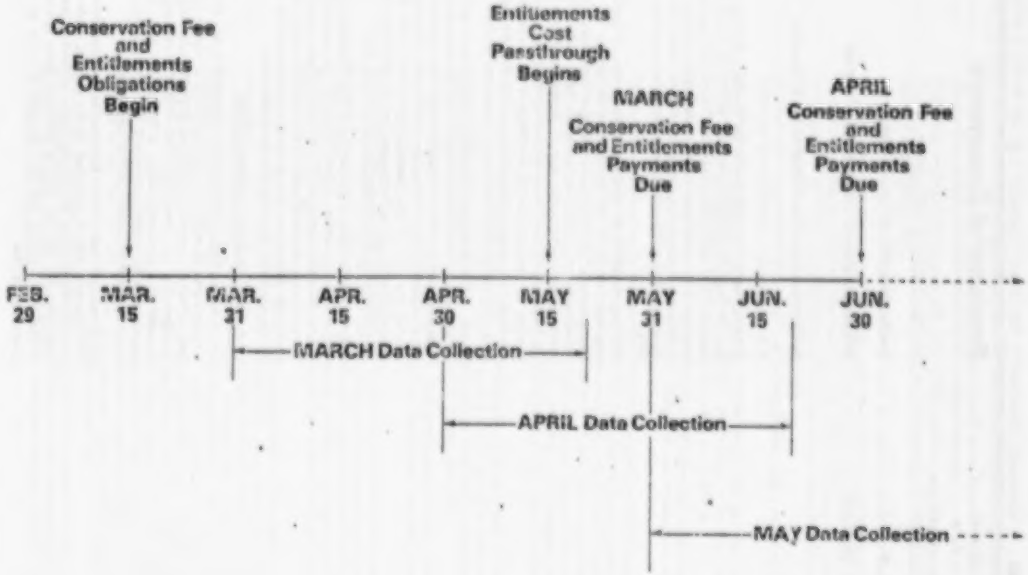
TIMING OF
Gasoline Conservation Fee/Entitlements
PROGRAM – 1980


Conservation Fee and Entitlements Obligations Begin
Entitlements Cost Passthrough Begins
MARCH Conservation Fee and Entitlements Payments Due
APRIL Conservation Fee and Entitlements Payments Due
FEB. 29
MAR. 15
MAR. 31
APR. 15
APR. 30
MAY 15
MAY 31
JUN. 15
JUN. 30
MARCH Data Collection
APRIL Data Collection
MAY Data Collection

Federal Register
Vol. 45, No. 66
Thursday, April 3, 1980

Presidential Documents

Title 3—

The President

Proclamation 4744 of April 2, 1980

Petroleum Import Adjustment Program

By the President of the United States of America

A Proclamation

In March 1979, the Secretary of the Treasury, having conducted an investigation of imports of petroleum and petroleum products in accordance with Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), concluded that such imports were entering the country "in such quantities and under such circumstances as to threaten to impair the national security." This finding confirmed the results of previous investigations conducted in 1950 and 1975.

The high level of the Nation's consumption of gasoline is the single most important cause of our dependence on foreign oil. At the same time, our consumption of gasoline can be reduced with less serious consequences to our economy than if similar action were taken with respect to other petroleum products, such as home heating oil. Consequently, the Secretary of Energy and the Secretary of the Treasury have advised that I take action to reduce oil imports by imposing a fee on imports of crude oil and gasoline and by establishing a program intended to ensure that the burden of the crude oil fee falls on gasoline. The Secretary of Commerce concurs.

I agree with their advice. To counter this threat to the national security of the United States, I deem it necessary to act pursuant to Section 232 of the Trade Expansion Act to adjust crude oil and gasoline imports through imposition of a gasoline conservation fee on imports of crude oil and gasoline and a system of passing the cost of this fee through on the price of gasoline in a manner consistent with and in furtherance of the objectives of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 751 *et seq.*).

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and the laws of the United States, including Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), and the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 751 *et seq.*), do hereby proclaim, effective March 15, 1980, that:

Section 1–1. *Gasoline Conservation Fee*

Sec. 1–101(a). Except as otherwise provided in this Proclamation, no crude oil (except crude oil which is exchanged in accordance with the provisions in the next to last sentence of Section 4(b)(1) of Proclamation 3279, as amended) or gasoline may be entered into the United States unless it is by or for the account of a person to which a license has been issued by the Secretary pursuant to this Proclamation and the entry is made in accordance with the terms of this Proclamation and of such license.

(b) Unexpried and unused licenses, or portions thereof, issued pursuant to Proclamation 3279, as amended, for the entry of crude oil and gasoline may be used for the purpose of entering those respective products through April 23, 1980; *provided*, that the entry is otherwise made in accordance with the terms of this Proclamation and that payment is made for all applicable gasoline conservation fees.

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Sec. 1-102(a). Upon application, the Secretary shall issue licenses subject to the gasoline conservation fees provided for in this paragraph.

(1) Except as provided in paragraph (a)(2) of this section, such licenses shall require, among other appropriate provisions, the payment of the following gasoline conservation fees:

(A) With respect to the entry of crude oil, such fee shall be $4.62 per barrel.

(B) With respect to the entry of gasoline, such fee shall be equal to the dollar per barrel amount of the gasoline entitlement determined in accordance with Section 2-1 of this Proclamation for the month in which the entry was made, which amount shall be published by the Secretary on or about the fifteenth day of the second month after the month of entry.

(2) Gasoline conservation fees shall not be applicable with respect to the following types of entries:

(A) Crude oil which is entered into the United States for the Strategic Petroleum Reserve Program by the Department of Energy, or by any other person certified by the Department of Energy as acting on its behalf.

(B) Gasoline produced in the U.S. Virgin Islands or a U.S. Foreign Trade Zone which has incurred a gasoline entitlement obligation in accordance with Section 2-1 of this Proclamation.

(b) All monies received under this section shall be deposited into the Treasury of the United States. The Secretary shall credit to a deposit fund account a portion of the monies received under the terms of this section to be drawn upon by the Secretary for the payment of refunds of gasoline conservation fees. All other amounts shall be credited to miscellaneous receipts. Balances credited to the deposit fund account and not required to be reserved for payments hereinafter provided for shall be transferred at the end of the fiscal year to miscellaneous receipts.

Sec. 1-103(a)(1). Except as provided in paragraph (a)(2) or (a)(3) of this section, applications for licenses subject to payment of a gasoline conservation fee under Section 1-102(a)(1) of this Proclamation shall not be considered unless they are accompanied by payment in the following amounts:

(A) For licenses for the entry of crude oil, such payments shall be in the amount equal to the number of barrels for which the license is to be issued multiplied by $4.62.

(B) For licenses for the entry of gasoline, such payment shall be in the amount equal to the number of barrels for which the license is to be issued multiplied by $4.35. Upon the determination of the actual fee, in accordance with Section 1-102(a)(1)(B) of this Proclamation, for the month in which an entry is made, an adjustment of the amount paid shall be made in accordance with section 1-106(a)(1) of this Proclamation.

(2) In lieu of prepayment in accordance with paragraph (a) of this section, an applicant for a license may submit (A) a bond with a surety on the list of acceptable sureties on Federal bonds, maintained by the Bureau of Government Financial Operations, Department of the Treasury (Department of the Treasury Circular 570) or (B) other security acceptable to the Secretary; provided, that for all subsequent entries made pursuant to the license received, payment shall be made for the applicable gasoline conservation fees. Bonds or such other security shall be posted for the amount chargeable under the license, unless the applicant has made timely payment of any fees imposed pursuant either to this Proclamation or to Proclamation 3279, as amended, for the twelve previous calendar months in which the applicant was obligated to pay fees, in which case bonds or such other security may be posted for fifty percent (50%) of the total amount chargeable.

(3) Payment of gasoline conservation fees by or for the account of a department, establishment, or agency of the United States shall be accomplished by transfers, as appropriate, from appropriation accounts available to such department, establishment, or agency.

(b) Separate licenses shall be issued for crude oil and gasoline and for entries subject or not subject to payment of gasoline conservation fees.

(c) Licenses issued for crude oil and gasoline under this section shall be valid for a period of one year following the date of their issuance unless such licenses have been completely used prior to that time. A license shall be considered to be issued on the date the license is signed by the Secretary.

Sec. 1-104(a)(1). With respect to licenses for the entry of gasoline issued upon prepayment of gasoline conservation fees, the Secretary shall refund such prepaid fees by an amount equal to the difference between the actual fee for the month in which the entry was made and the prepaid amount of $4.35, multiplied by the number of barrels entered; *provided*, that the actual fee for the month in which the entry was made is less than $4.35 per barrel. In the event the actual fee exceeds $4.35 per barrel, the licensee must make payment for the difference.

(2) The Secretary is further authorized to refund fees paid or to reduce fees owed, in whole or in part:

(A) where the licensee prepaid the fees and failed to use the license issued to him;

(B) where the license fee has been improperly charged.

(b)(1) All applications for such refunds or reductions based on entries of crude oil and gasoline must be filed with the Secretary by the end of the sixth month following the month in which the entry was made.

(2) Applications for refunds of fees for any unutilized portion of a prepaid license shall not be acted upon until the license has been received by the Secretary. Such applications must be filed with the Secretary within six months of the expiration date of the license.

(c) Refunds or reductions made pursuant to this section shall be made without interest, and in no case may the total of the refunds or reductions claimed exceed the amount of the fees paid for the license.

Sec. 1-105(a). For the purposes of this Proclamation, crude oil or gasoline shall be deemed to have "entered" the United States when it is released for immediate delivery, or entered, or withdrawn from warehouse for consumption, whichever occurs first as evidenced by the dates on Customs Form 3461, 7501, or 7505, as appropriate, or successor forms.

(b) Licenses shall be presented to the District Director of Customs at a point of entry to be selected by the licensee and shall remain in Customs custody until fully utilized or expired, whereupon they shall be returned by the Customs Service to the Secretary.

Sec. 1-106(a). No license shall be required in connection with the entry into the United States of crude oil or gasoline which is transported from one point in the United States to another such point through a pipeline that passes through a foreign country. If, incidental to such transportation, the crude oil or gasoline is commingled with or displaced by foreign crude oil or gasoline, no license shall be required for the entry of quantities of like kind and quality equivalent to those which left the United States.

(b) In the event the volume of a particular shipment of crude oil or gasoline entered pursuant to a license exceeds, by five percent (5%) or less, the volume stated as remaining on the license against which the crude oil or gasoline is being entered, the Customs officer may permit the entry of the excess without license but in such an event he shall notify the Department of Energy. The licensee must, within ten days of such entry, remit payment for any gasoline conservation fees applicable to such excess.

(c) Customs officers are authorized to permit entry, without license, of quantities not to exceed 550 U.S. gallons of gasoline or 100 barrels of crude oil which otherwise would be subject to the payment of a fee, where the quantities entered are certified as:

(1) constituting samples for testing or analysis;

(2) included in shipments of machinery or equipment and intended for use in connection therewith; or

(3) baggage entries.

Sec. 1–107(a). Unless the Secretary directs otherwise, payment of fees shall be accomplished by wire transfer to an account specified by the Secretary, in accordance with such payment instructions as he may prescribe, or, at the licensee's option where the payment is for an amount less than $1,000,000.00, by delivery to the Secretary of a certified check or a cashier's check payable to the order of the Treasurer of the United States.

(b) Payments in accordance with Sections 1–101(b), 1–103(a)(2) and 1–104(a)(1) must be received by the last day of the second month following the month in which an entry is made if that day is a business day, and if not, by the end of the next business day.

Section 2–1. *Gasoline Entitlements*

Sec. 2–101. For each month beginning with March of 1980, the Secretary shall calculate the "total national fee." The total national fee for a particular month shall be the total amount of the gasoline conservation fees payable for all crude oil entered by all persons in that month.

Sec. 2–102. The price of a gasoline entitlement for each month shall be equal to the total national fee for that month divided by the total number of barrels of gasoline production in that month for which gasoline producers must purchase gasoline entitlements, as adjusted by the Secretary in accordance with Section 2–103 of this Proclamation.

Sec. 2–103. In order to correct for reporting or calculation errors, overpayments, underpayments, and similar occurrences in any month, the Secretary in one or more months subsequent to that month may adjust either or both the price of a gasoline entitlement and the number of gasoline entitlements issued to or required to be purchased by persons.

Sec. 2–104. For each month beginning with March 1980, the Secretary shall issue to each person who entered, during that month, crude oil subject to a gasoline conservation fee pursuant to Section 1–102(a), a number of gasoline entitlements equal in value to the total amount of gasoline conservation fees for crude oil entered in that month that were paid or are payable by that person pursuant to this Proclamation.

Sec. 2–105(a). Except as provided in paragraphs (b) and (c) of this section, with respect to its gasoline production in any month beginning with March 1980, a gasoline producer must purchase gasoline entitlements equal in number to the number of barrels of its gasoline production in that month.

(b) If in any full calendar month the per barrel amount of any additional levy imposed by Puerto Rico or the U.S. Virgin Islands after the effective date of this Proclamation on gasoline consumed in its jurisdiction or produced in its jurisdiction for consumption therein is at least equal to $4.20 or the value of a gasoline entitlement for that month, whichever is less, the number of barrels of gasoline production for which a gasoline producer must purchase gasoline entitlements for that month shall be reduced by the number of barrels of that producer's gasoline production in that month which is subject to the levy.

(c) A person which is issued gasoline entitlements for any month pursuant to Section 2–104 must sell each such gasoline entitlement to a gasoline producer required to purchase gasoline entitlements for that month.

Sec. 2–106. On or about the fifteenth day of the second month following any particular month beginning with March 1980, the Secretary shall publish a list which shall set forth the number of gasoline entitlements which each gasoline producer must purchase and which each person issued entitlements must sell for that particular month. Such purchases and sales shall be completed by the last day of the second month following that particular month. The Secretary may direct persons that have not purchased or sold the required number of entitlements within that time to purchase or sell such required number of entitlements from or to a person with reciprocal requirements. A person which in a particular month must both purchase and sell entitlements may purchase them from itself.

Sec. 2-107. Notwithstanding any provision to the contrary in the Energy Regulations, no portion of any cost of a gasoline conservation fee imposed under Section 1-1 of this Proclamation may be considered under the Energy Regulations as a cost or part of a cost of crude oil, as that term is defined in the Energy Regulations, or any petroleum product, except as provided in Sections 2-108 and 2-109 of this Proclamation. For purposes of such sections, gasoline conservation fees shall be deemed to have been paid at the time that actual payment of such fees has been made to the Secretary, except that, in the case of an entry made pursuant to a prepaid license, payment of the fee may, at the option of the licensee, be deemed to have been made at the time of entry.

Sec. 2-108. Notwithstanding any provision to the contrary in the Energy Regulations, any person that is not a refiner shall be deemed to have incurred an increased product or acquisition cost for gasoline in any particular month in an amount equal to the sum of (a) the amount of any gasoline conservation fees paid by that person in that month for gasoline entered into the United States, less the amount of any refunds with respect to licenses for gasoline that person has received pursuant to Section 1-104, and (b) the amount paid by such person during that month for gasoline entitlements: *provided*, that, prior to May 15, 1980, no person shall increase the price of gasoline as a result of such increased acquisition or product costs pursuant to this section.

Sec. 2-109. Notwithstanding any provision to the contrary in the Energy Regulations:

(a)(1) A person that is a refiner may add to its B_6t factor for gasoline (its increased purchased product costs as described in Section 212.83 of the Energy Regulations) for any month an amount equal to $4.20 multiplied by the number of barrels of gasoline subject to the gasoline conservation fee which that refiner entered into the United States in the month two months prior to such month. Any increases in gasoline prices that are allowed as a result of such addition to the B_6t factor shall not be made prior to May 15, 1980.

(2) If, in any month beginning with June 1980, the amount of gasoline conservation fees on gasoline paid by a refiner in the month immediately preceding that month was greater or less than an amount determined by multiplying $4.20 by the number of barrels of gasoline subject to the gasoline conservation fee which were entered into the United States by that refiner in the month three months prior to that month, the difference shall be added to or subtracted from, respectively, that refiner's B_6t factor for that month.

(b)(1) A person that is a refiner may add to its A_6t factor for gasoline (its increased crude oil costs as described in Section 212.83 of the Energy Regulations) for any month an amount equal to $4.20 multiplied by the number of barrels of that refiner's gasoline production in the month two months prior to that month. Any increases in gasoline prices that are allowed as a result of such addition to the A_6t factor shall not be made prior to May 15, 1980.

(2) If, in any month beginning with June 1980, the amount paid by a refiner for gasoline entitlements purchased in the month immediately preceding that particular month was greater or less than an amount determined by multiplying $4.20 by the number of barrels of that refiner's gasoline production in the month three months prior to that month, the difference shall be added to or subtracted from, respectively, that refiner's A_6t factor for that month.

(3) The amount added to or subtracted from the A_6t factor pursuant to this section shall not be subject to the "gasoline tilt" provision found in the last sentence of the first paragraph of Section 212.83(a)(2)(iii)(C) of the Energy Regulations.

Section 3-1. *Administrative Provisions*

Sec. 3-101(a). The Secretary is delegated authority to provide for the administration and enforcement of this Proclamation. The Secretary shall, from time to time, in consultation with the Secretaries of Commerce, State, and the Treasury, and other Federal agencies as appropriate, review the status of imports of crude oil and its primary derivatives in respect to the national security. In this connection, he shall inform the President of any circumstances which might indicate the need for further Presidential action under Section 232 of the Trade Expansion Act of 1962, as amended.

(b) The Secretary is delegated the authority to adjust, from time to time, the amount of the gasoline conservation fee specified in Section 1-102(a)(1)(A) of this Proclamation in order to ensure that, as closely as practicable, the value of a resulting gasoline entitlement approximates $4.20.

(c) All departments and agencies of the Executive Branch of the Government shall cooperate with and assist the Secretary in achieving the purposes of this Proclamation.

Sec. 3-102(a). Persons applying for licenses pursuant to Section 1-1 of this Proclamation shall submit such information and make such reports as the Secretary determines necessary to fulfill his responsibilities under this Proclamation.

(b) By the fifth day of the second month following any particular month, beginning with May 5, 1980 for March 1980, each gasoline producer shall report to the Secretary its gasoline production for that month. A person with gasoline production in Puerto Rico or in the U.S. Virgin Islands in any month shall report separately its gasoline production in Puerto Rico or in the U.S. Virgin Islands in that month and the portion of such production which is produced for consumption in Puerto Rico or in the U.S. Virgin Islands.

(c) The Secretary may require a person subject to the reporting requirements of paragraph (a) or (b) of this section to report any additional information determined by the Secretary to be necessary to ensure that the objectives of this Proclamation are attained.

(d) A person required under this Proclamation to submit any report to the Secretary shall correct any errors contained in that report by filing an amended report as promptly as possible but not later than the last day of the eighth month following the month for which the report was filed.

Sec. 3-103(a). A person subject to any reporting requirement under Section 3-102 of this Proclamation shall prepare and maintain at its principal place of business sufficient records, including but not limited to records specifically required by the Secretary, to document its compliance with the provisions of this Proclamation.

(b) All records required to be maintained pursuant to this Proclamation shall be retained for a period of three years.

Sec. 3-104. The Secretary may initiate and conduct audits and investigations relating to the scope, nature, and extent of compliance by any person subject to any provision of this Proclamation.

Sec. 3-105(a). In addition to any other remedies or penalties available to enforce this Proclamation or Proclamation 3279, as amended, the Secretary may revoke or suspend, in accordance with the provisions set forth in Subpart T, Part 205, of Title 10 of the Code of Federal Regulations, licenses issued to any person that violates the terms of this Proclamation or Proclamation 3279, as amended. In addition or in the alternative, and notwithstanding the provisions in Section 1-103(a)(2) of this Proclamation, the Secretary, in his discretion, may require that any person that violates the terms of this Proclamation post bonds for license fees in the full amount chargeable or prepay all license fee amounts in order to receive a license.

(b) In the event a person fails to fulfill an obligation arising under Section 2–1 of this Proclamation, that person shall be subject to the remedies and penalties available under the Emergency Petroleum Allocation Act of 1973.

Sec. 3–106. For purposes of this Proclamation, the following definitions shall apply:

"Crude oil" means a mixture of hydrocarbons that existed in natural underground reservoirs and which is liquid at atmospheric pressure after passing through surface separating processes, and does not include natural gas products. It also includes the initial liquid hydrocarbons produced from tar sands, gilsonite, and oil shale.

"Energy Regulations" means Parts 210, 211 and 212 of Title 10, Code of Federal Regulations.

"Gasoline" means gasoline as that term is defined in Section 212.31 of the Energy Regulations, which definition, for purposes of reference, is as follows: "all of the various grades, other than aviation gasoline, of refined petroleum naphtha which, by its composition, is suitable for use as a carburent in internal combustion engines."

"Gasoline entitlement" means the proportionate share which each barrel of gasoline production for a particular month bears to the total gasoline conservation fees payable for that month.

"Gasoline producer" means that person which first manufactures a volume of gasoline by refining, blending or any other process.

"Gasoline production," for a particular gasoline producer in a particular month, means the total number of barrels of gasoline manufactured by refining, blending, or any other process in that month by that gasoline producer in the United States, the U.S. Virgin Islands, and a U.S. Foreign Trade Zone. Where incremental volumes of gasoline are manufactured through the addition of substances to gasoline for which gasoline entitlement obligations have already been incurred, only the incremental volumes of gasoline, less any volumes of alcohol, are gasoline production. For March 1980, a gasoline producer's gasoline production shall be determined by multiplying the number of barrels of that gasoline producer's gasoline production in March 1980 by 17/31; *provided,* that in the event a gasoline producer can demonstrate that the actual number of barrels of gasoline produced by that gasoline producer in the period March 15 through March 31 was less than 17/31 of that gasoline producer's total gasoline production in March 1980, that gasoline producer may report actual volumes of gasoline production for the period March 15 through March 31. Gasoline manufactured by a gasoline producer on behalf of another person shall be included within the gasoline production of the gasoline producer unless the other person is a refiner, in which case the gasoline shall be included within the gasoline production of the other person.

"Person" means any natural person, or a partnership, association, consortium or any other entity whether organized for a business or other purpose, or a department or other governmental unit of a state, territory of the Federal Government. A person shall include a parent organization and the consolidated and unconsolidated entities which it directly or indirectly controls.

"Refiner" means refiner as that term is defined in Section 212.31 of the Energy Regulations.

"Secretary" means the Secretary of Energy or his delegate.

"United States" means the fifty States, the District of Columbia, and Puerto Rico, but not U.S. Foreign Trade Zones.

Section 4–1 *Conforming Amendments*

Sec. 4–101. Section 1 of Proclamation 3279, as amended, is amended by the addition of a new paragraph (f) to read as follows:

"(f) Except with respect to licenses issued pursuant to the next to last sentence of Section 4(b)(1) of this Proclamation, all licenses issued pursuant to this Proclamation which could be utilized to enter crude oil or gasoline pursuant to another Proclamation shall expire effective 12:01 a.m. April 14, 1980. Notwithstanding any other provision of this Proclamation, no licenses shall be issued hereunder on or after that date for the entry of any crude oil, unfinished oils, or finished products governed by another Proclamation during any period in which a fee of $0.00, as provided in Section 3 of this Proclamation, is in effect."

Sec. 4-102. Section 1(e) of Proclamation 3279, as amended, is amended by deleting the comma appearing after the word "Proclamation" and by adding the words " or any other Proclamation governing the entry of crude oil, unfinished oils or finished products," to immediately follow the word "Proclamation".

Sec. 4-103. Section 8 of Proclamation 3279, as amended, is amended by deleting the period at the end of the next to last paragraph and by adding at the end of that paragraph the following words: "*provided*, that the system of issuing allocations and licenses with respect to exchanges under Section 4(b)(1) of this Proclamation shall remain in effect during any period in which a fee of $0.00, as provided in Section 3 of this Proclamation, is in effect.".

IN WITNESS WHEREOF, I have hereunto set my hand this second day of April, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-[illegible]
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FOR IMMEDIATE RELEASE April 11, 1980

Office of the White House Press Secretary

THE WHITE HOUSE

TECHNICAL AMENDMENTS TO PROCLAMATION 4744

- - - - - - - - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

By the authority vested in me as President by the Constitution and the laws of the United States, including Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), and the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 751 *et seq.*), Proclamation 4744 is hereby amended as follows:

Section 1-101. Section 1-104 of Proclamation 4744 is amended by renumbering paragraph (a)(2) as (a)(3), and by the addition of a new paragraph (a)(2) to read:

"(a) . . .

(2) With respect to the entry of gasoline subject to the payment of a fee, the Secretary shall refund fees paid or reduce fees owed by the amount of any additional levy which results in a reduction in entitlements obligations as set forth in Section 2-105(b) of this Proclamation and which is imposed and collected by Puerto Rico on such entries that are consumed in Puerto Rico; *provided*, that, with respect to each barrel, such refunds or reductions may not exceed the amount of the actual fee for the month in which the entry was made."

Sec. 1-102. Section 2-105(a) of Proclamation 4744 is amended by revising the phrase "paragraphs (b) and (c)" to read "paragraph (b)".

Sec. 1-103. Section 2-109 of Proclamation 4744 is amended to read:

"Sec. 2-109. Notwithstanding any provision to the contrary in the Energy Regulations:

"(a)(1) A person that is a refiner may add to its B_I^t factor for gasoline (its increased purchased product costs as described in Section 212.83 of the Energy Regulations) for use in determining any current month's prices an amount equal to $4.20 multiplied by the number of barrels of gasoline subject to the gasoline conservation fee which that refiner entered into the United States in the month two months prior to such month. Any increases in gasoline prices that are allowed as a result of such addition to the B_I^t factor shall not be made prior to May 15, 1980.

"(2) If, in any current month beginning with June 1980, the amount of gasoline conservation fees on gasoline paid by a refiner in the month immediately preceding that month was greater or less than an amount determined by multiplying $4.20 by the number of barrels of gasoline subject to the gasoline conservation fee which were entered into the United States by that refiner in the month three months prior to that month, the difference shall be added to or subtracted from, respectively, that refiner's B_I^t factor for use in determining that month's prices.

"(b)(1) A person that is a refiner may add to its A_I^t factor for gasoline (its increased crude oil costs as described in Section 212.83 of the Energy Regulations) for use in determining any current month's prices an amount equal to $4.20 multiplied by the number of barrels of that refiner's gasoline production in the month two months prior to that month. Any increases in gasoline prices that are allowed as a result of such addition to the A_I^t factor shall not be made prior to May 15, 1980.

"(2) If, in any current month beginning with June 1980, the amount paid by a refiner for gasoline entitlements purchased in the month immediately preceding that particular month was greater or less than an amount determined by multiplying $4.20 by the number of barrels of that refiner's gasoline production in the month three months prior to that month, the difference shall be added to or subtracted from, respectively, that refiner's A_I^t factor for use in determining that month's prices.

"(3) The amount added to or subtracted from the A_I^t factor pursuant to this section shall not be subject to the "gasoline tilt" provision found in the last sentence of the first paragraph of Section 212.83(a)(2)(iii)(C) of the Energy Regulations."

Sec. 1-104. Section 3-103(a) of Proclamation 4744 is amended by revising the phrase "Section 3-103" to read "Section 3-102".

Sec. 1-105. Section 4-101 of Proclamation 4744 is amended by revising the phrase "April 14" to read "April 24".

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of April, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER

# # #

FOR IMMEDIATE RELEASE APRIL 2, 1980

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

ON THE GASOLINE CONSERVATION FEE PROGRAM

Summary of the Program

- o President Carter today signed a Proclamation which imposes a gasoline conservation fee of $4.62 per barrel on imports of crude oil. The burden of the fee will fall entirely on gasoline.

- o In his address to the Nation on March 14, 1980, President Carter announced his intention to exercise his authority under the Trade Expansion Act and the Emergency Petroleum Allocation Act to impose a gasoline conservation fee on imports of crude oil and gasoline beginning March 15, 1980, to reduce the level of U.S. imports. The President has found that the high level of our Nation's consumption of gasoline is the single most important cause of our dependence on foreign oil. Therefore, the President has determined to shift the entire cost of the fee to gasoline, which provides the greatest conservation potential without unduly affecting the economy.

- o For each barrel of gasoline produced in the United States beginning March 15, 1980, a gasoline producer will be required to purchase an "entitlement" from a firm which imported crude oil. Thus, an importer of crude oil will be reimbursed by producers of gasoline for the gasoline conservation fee which the importer pays to the Federal Government.

- o The exact price of a gasoline entitlement for each month will be determined by DOE by dividing the total amount of gasoline conservation fees payable on imported crude oil by the total number of barrels of gasoline produced in the United States in the same month.

- o Given current crude oil import and gasoline production levels, a gasoline conservation fee of $4.62 per barrel on imported crude oil will result in gasoline prices increasing by approximately ten cents per gallon. The Proclamation authorizes the Secretary to adjust periodically the gasoline conservation fees imposed to achieve approximately a ten cent per gallon effect on gasoline prices.

- o Any fee payable will be collected by the Department of Energy (DOE) and deposited into the General Treasury Fund. Approximately $10.3 billion will be collected in fiscal year 1981.

- o Gasoline imported into the United States will be subject to a gasoline conservation fee equal to the value of the gasoline entitlement calculated for the month in which the gasoline is imported. However, since the exact amount of the entitlement will not be known at the time of importation, gasoline importers will be required to post bond or such other security as approved by the Secretary, or prepay a fee of $4.35 per barrel. After the gasoline entitlement value calculation establishes the actual fee due, importers of gasoline will be refunded any monies owed them for overcollection of the gasoline conservation fee or become liable for additional payments.

- The expected effect of the gasoline conservation fee is to reduce gasoline consumption by approximately 100,000 barrels (or 4.2 million gallons) per day by the end of the first year. Once the President's proposed motor fuels tax is enacted, the gasoline conservation fee program will be terminated. By the end of the third year, the expected effect of the conservation fee, followed by the motor fuels tax, is to reduce gasoline and diesel consumption and imports by up to 250,000 barrels per day, or 10.5 million gallons per day.

- In the event that either the U.S. Virgin Islands or Puerto Rico impose a levy on gasoline consumed in its jurisdiction, gasoline production consumed in Puerto Rico or the U.S. Virgin Islands, as appropriate, will not be subject to a gasoline entitlements obligation. A gasoline producer's obligation to purchase gasoline entitlements will be reduced by the number of barrels of its production subject to such a levy.

- Crude oil imported for the Strategic Petroleum Reserve will be exempted from the gasoline conservation fee. Also exempted are small amounts of crude oil or gasoline imported in shipments of machinery or equipment, or used for testing or analysis, or as baggage entries. The fee will also not apply to shipments which are transported from one point in the United States to another point in the United States via a pipeline which passes through Canada or Mexico. Crude oil from Canada which enters as a result of an exchange for U.S. crude oil exported to a Canadian firm will not be subject to the gasoline conservation fee.

- More detail on how today's Proclamation works is attached as an appendix.

APPENDIX

HOW THE PROCLAMATION WORKS

Gasoline Conservation Fee

An importer may not enter crude oil or gasoline into the United States on or after March 15, 1980 unless it possesses a license as required by today's Proclamation for the entry of crude oil or gasoline. In most instances, the issuance of such a license requires the payment of a gasoline conservation fee on each barrel of crude oil or gasoline entered into the United States on or after March 15, 1980. Prior to April 23, 1980, entries may be made pursuant to existing licenses issued under Proclamation No. 3279 (an earlier Proclamation under which the basic oil import program was established) subject, however, to the fees applicable under today's Proclamation. By April 23, new licenses for crude oil and gasoline will be required under today's Proclamation, and new licenses for all other unfinished oils and finished products will be required under Proclamation No. 3279. These latter licenses, however, are not subject to the payment of a fee.

The per barrel amount of the gasoline conservation fee on crude oil is $4.62. The payment may be made in one of two ways. An importer may either (1) prepay the fees when it applies for the license by submitting with its application a payment of $4.62 per barrel, or (2) rather than prepay, an importer may post a bond, or such other security as the Secretary may approve, for this amount. The amount of bond may be reduced by fifty percent if the importer applying for the license has a one-year record of timely payment of any fees under either today's Proclamation or Proclamation No. 3279. If an importer elects to post a bond, the fee must be received by the Secretary of Energy by the last day of the second month following the month in which the barrel of crude oil entered the United States. For example, the fee for crude oil entered in April 1980 must be paid by June 30, 1980.

The gasoline conservation fee on each barrel of gasoline entered in a particular month will be equal to the price of a gasoline entitlement for that month. While the price of a gasoline entitlement will vary each month, it will approximate $4.20 a barrel. DOE will determine the exact amount for each month by dividing the total amount of gasoline conservation fees payable on imported crude oil by the total number of barrels of gasoline produced in the United States in that same month.

Since the exact amount of the entitlement will not be known at the time of importation, gasoline importers will be required to post bond or such other security as approved by the Secretary, or prepay a fee of $4.35 per barrel. After the gasoline entitlement price is calculated, and the actual amount of the fee is thereby established, importers of gasoline will be refunded any monies owed them for over-collection of the gasoline conservation fee or become liable for additional payments.

In two instances, licenses will be issued pursuant to today's Proclamation without a requirement that the importer pay gasoline conservation fees. An importer of crude oil will not be required to pay the fees on crude oil in order to obtain a license to import crude oil for the Strategic Petroleum Reserve Program. A person who imports into the United States gasoline produced in the U.S. Virgin Islands or a U.S. Foreign Trade Zone will not be required to pay the fees on gasoline. However, the producer of such gasoline is obligated to purchase gasoline entitlements for such gasoline.

There are three instances in which crude oil or gasoline may be imported into the United States without a license issued pursuant to today's Proclamation. Licenses for the entry of crude oil from Canada pursuant to exchange agreements will continue to be issued pursuant to Proclamation No. 3279 and not today's Proclamation, and thus will not be subject to the gasoline conservation fee on crude oil. No license or fee will be required for the entry into the United States of crude or gasoline which is transported from one point in the United States to another point through a pipeline that passes through a foreign country. No license will be required for the entry of less than 550 U.S. gallons of gasoline or 100 barrels of crude oil, if the quantities entered into the United States are certified as constituting samples for testing or analysis, included in shipments of machinery or equipment, or baggage entries.

For purposes of today's Proclamation, the United States includes the fifty States, the District of Columbia and Puerto Rico, but not the U.S. Virgin Islands, a U.S. Foreign Trade Zone or other territories or possessions of the United States. Thus, an importer does not have to obtain a license pursuant to this Proclamation or pay a gasoline conservation fee to import crude oil or gasoline into the U.S. Virgin Islands or a U.S. Foreign Trade Zone. On the other hand, an importer must obtain a license issued pursuant to this Proclamation to import into the United States gasoline produced in either the U.S. Virgin Islands or a U.S. Foreign Trade Zone. As noted above, however, normally such imports would be without a fee.

Gasoline Entitlements

To shift the cost of the gasoline conservation fee on crude oil entirely to gasoline production, the Proclamation establishes an entitlements program for gasoline. A gasoline entitlement is a financial obligation placed on gasoline production by today's Proclamation. For each barrel of gasoline produced, a gasoline producer must purchase one gasoline entitlement. The price of the gasoline entitlement in a month, as noted above, is equal to the total gasoline conservation fees payable on crude oil in that month divided by the total barrels of gasoline production. While the price will vary somewhat from month to month, it will approximate $4.20 per barrel.

Under the system established by today's Proclamation, each importer of crude oil will be issued for each month gasoline entitlements equal in value to the gasoline conservation fees payable on crude oil that it imported in that month. Each gasoline producer will be required each month to purchase gasoline entitlements from importers equal to the number of barrels of its gasoline production for that month. A person that is both an importer and a gasoline producer may purchase gasoline entitlements from itself.

DOE will publish each month beginning in May 1980 a list of gasoline producers and the number of gasoline entitlements they must purchase for the month two months previous and a list of the crude oil importers and the number of gasoline entitlements they must sell for the month two months previous. By the close of the month all the purchase and sales transactions must be completed. For example, in June 1980 DOE will publish a list of the gasoline entitlement purchase and sale obligations for gasoline production and crude oil imports for the month of April 1980. By June 30, 1980 each gasoline producer will have had to purchase gasoline entitlements from a crude oil importer. As was explained above, the payment of the fees for an entry in April would not be due and payable (except in the case of prepaid licenses) until June 30, the same time at which the importer is selling his gasoline entitlements issued him by DOE. Thus, the system results in crude oil importers being fully reimbursed for payments made to the U.S. Treasury for the conservation fees by their receipt at the same time of payment for gasoline entitlements purchased from them by gasoline producers. It should be noted that the actual payments (except where licenses have been prepaid) all occur by the end of the second month following the month of entry of crude oil or of gasoline production.

In determining its gasoline production, a gasoline producer must look to the total amount of gasoline that it manufactures in the United States, the U.S. Virgin Islands or a U.S. Foreign Trade Zone. Manufacturing includes refining, blending or any other process that results in the production of gasoline. If a gasoline producer employs a process that adds substances (other than alcohol) to gasoline for which gasoline entitlement obligations have already been incurred, then only the incremental amount of gasoline produced by that process will be treated as gasoline production. If a gasoline producer manufactures gasoline on behalf of another person who is a refiner, then that gasoline should be included in the gasoline production of the other person.

Today's Proclamation is effective March 15, 1980. Since today's Proclamation is effective only for the last 17 days in March, a gasoline producer's gasoline production in March 1980, for purposes of today's Proclamation, will be calculated as 17/31 of its total gasoline production in March 1980. In the event that a gasoline producer can demonstrate that the actual number of barrels of gasoline produced by it in the period March 15 through March 31 was less than 17/31 of its total gasoline production in March 1980, it can report its actual production for the period March 15 through March 31.

In the event that either Puerto Rico or the U.S. Virgin Islands imposes a new levy on gasoline consumed in its jurisdiction, a gasoline producer's obligation to purchase gasoline entitlements will be reduced by the number of barrels of its production subject to such a levy, if the levy is in effect for all of that month, is in addition to any already existing levies and is at least equal, on a per barrel basis, to $4.20 or the value of a gasoline entitlement for that month, whichever is less.

Passthrough of Gasoline Conservation Fees and Gasoline Entitlements

Today's Proclamation is explicit that, notwithstanding any provision in the pricing and allocation regulations adopted pursuant to the Emergency Petroleum Allocation Act of 1973, no portion of any cost of a gasoline conservation fee may be considered as a cost or part of a cost of crude oil or any petroleum product under those regulations, except as provided for in today's Proclamation. No provision is made in the Proclamation for passing through the cost of the fee on crude oil because the importer is totally reimbursed for that fee and thus incurs no real cost. Thus the fee will not be considered as part of the cost of the crude oil in crude oil resales, and other references in DOE's regulations to the cost of crude oil, such as in the Crude Oil Entitlements Program and the Buy/Sell Program, will not include the cost of the crude oil fee. This is consistent with the objective of today's Proclamation that the costs associated with this Proclamation be reflected only in the price of gasoline.

Today's Proclamation does set forth, however, explicit mechanisms by which the cost of the gasoline conservation fees on gasoline as well as the costs of the gasoline entitlements may be recovered in the selling price of gasoline. A firm that is not a refiner may recover its costs for gasoline conservation fees on gasoline and for gasoline entitlements by increasing its selling price for gasoline in the month in which it pays such costs. If a firm does not recover such costs in that month, it may recover them in a future month in the same manner as it would recover any increased product cost that was not recovered in the month in which it was incurred. The selling price of gasoline, however, must also be adjusted to reflect any refunds received by a firm with respect to payment of gasoline conservation fees on gasoline. None of these costs may be passed through prior to May 15, 1980.

A refiner may pass through its costs for gasoline conservation fees on imported gasoline by increasing the amount of increased purchased product costs that it may recover in the selling price of gasoline for the month in which such fees are payable, which normally would be the second month following the month of entry. Since the actual amount payable will not be known until the end of that month , a refiner will be permitted from the beginning of the month to increase its purchased product costs by an amount equal to $4.20 times the number of barrels of gasoline imported in the month of measurement. A correction must be made in the next month to reflect any difference between this amount and the amount actually paid. These changes to increased purchased product costs will be an addition to or subtraction from the "B_It" factor for gasoline in the month in which they are made and should be recovered and banked like any other cost included in the "B_It" factor. */

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*/ The B_It factor, as well as the A_It factor mentioned below, are terms used in the refiner price formula in DOE's pricing regulations governing how costs to refiners are passed through in their products.

A refiner may pass through its costs for gasoline entitlements by increasing the amount of increased crude oil costs that it may recover in the selling price of gasoline during the month in which such gasoline entitlements must be purchased, which is the second month following the month in which the gasoline was produced that incurred the entitlement obligation. Since the actual price of the gasoline entitlements which must be purchased will not be known until the end of that month, a refiner will be permitted from the beginning of the month to increase its increased crude oil costs by an amount equal to $4.20 times the number of barrels of gasoline production for the month of measurement. A correction must be made in the next month to reflect any difference between this amount and the amount actually paid for gasoline entitlements. Many refiners import crude oil, as well as produce gasoline, and thus will be in a position to purchase gasoline entitlements from themselves. If a refiner does purchase a gasoline entitlement from itself, it may include the price of that entitlement in calculating the amount it actually paid for gasoline entitlements in a month. These changes to increased crude oil costs will be an addition to or a subtraction from the "$A_I t$" factor for gasoline in the month in which they are made and should be recovered and banked like any other cost included in the "$A_I t$" factor. Any additions to or subtractions from the "$A_I t$" factor must be made after a refiner has exercised its discretion to increase the "$A_I t$" factor for gasoline by ten percent pursuant to the gasoline tilt mechanism.

Today's Proclamation makes clear that none of the increases in selling price of gasoline which it provides for refiners may occur prior to May 15, 1980.

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Department of Energy
Washington, D.C. 20461

April 2, 1980

TO WHOM IT MAY CONCERN:

SUBJECT: IMPORTANT INFORMATION ON PETROLEUM IMPORT
ADJUSTMENT PROGRAM--PRESIDENTIAL PROCLAMATION 4744

In President Carter's address to the Nation on March 14, 1980, he announced that, as part of his anti-inflation program, he was taking action with respect to oil imports. In order to adjust imports which threaten the national security, the President imposed a fee on imports of crude oil and gasoline and established a system of passing this fee onto gasoline. The President acted pursuant to his authority under the Trade Expansion Act and the Emergency Petroleum Allocation Act of 1973, as amended. Presidential Proclamation 4744, which implements the new program, was signed on April 2, 1980, and it applies to crude oil and gasoline entered into the United States after March 14, 1980. The Proclamation requires some changes in the types of licenses issued by the Office of Oil Imports and these changes are detailed in the following paragraphs.

The gasoline conservation fee for crude oil will be $4.62 per barrel and the fee for gasoline will be approximately $4.20 per barrel. Fees will be payable by wire transfer to the order of the Treasurer of the United States, or for amounts less than $1 million, either through wire transfer or by sending a certified or cashier's check to the Office of Oil Imports. Fees (other than those for prepaid licenses or for overages on licenses) must be paid by the last day of the second month following the month of entry, unless that day is not a business day, in which case fees must be received by the next business day. Actual payment instructions will be issued in the near future. Importers paying the fees applicable to crude oil will receive payments from gasoline producers at the time fees are due through an entitlements program. Gasoline fees will not be offset.

Unexpired and unused licenses, or portions thereof, issued pursuant to Proclamation 3279, as amended, for the entry of crude oil and gasoline may be used for the purpose of entering these items through April 23, 1980. However, any crude oil or gasoline entered after March 14, 1980, on such licenses will be subject to the fees mentioned above and all other terms of Proclamation 4744. All licenses that have been previously issued, pursuant to Proclamation 3279, as amended, and the Oil Import Regulations, prior to March 15, 1980, shall expire effective 12:01 a.m., April 24, 1980, except for those licenses pertaining to the entry of Canadian mid-continent crude oil exchanges under Part 213.28(b). This period is intended to provide time for you to apply for and be issued new licenses.

All imports that were required to have an import license under Proclamation 3279 will continue to require a valid license for entry either under that Proclamation or Proclamation 4744. In order to obtain a license that will be valid for entries on or after April 24, 1980, the following will govern:

1. All crude oil entries, except crude oil entered pursuant to Section 213.28(b) will require a license under Proclamation 4744. With the exception of entries for the Strategic Petroleum Reserve, crude oil entries will be subject to a fee of $4.62 per barrel. Crude oil currently entered from Canada under Section 213.28(a) and (c) will also be subject to the fee effective March 15, 1980, and entries under Section 213.28(a) will now require a license.

2. All gasoline entries will require a license under Proclamation 4744. With the exception of entries from the U.S. Virgin Islands and the Foreign Trade Zones which have incurred a gasoline entitlement obligation, gasoline entries will be subject to a fee equal to the gasoline entitlement obligation in the month in which the gasoline was entered. For purposes of prepayment or use of an approved security in lieu of prepayment, an initial amount of $4.35 per barrel will be used to determine the necessary prepayment, surety bond or other security requirement. This initial amount will be corrected to that of the actual entitlement value of gasoline for the month in which an entry is made by providing for refunds of the difference. It is expected that the actual fee will average, over time, about $4.20 per barrel.

3. Entries of unfinished oils, and finished products except for gasoline, will continue to be licensed under Proclamation 3279

and will be subject to a fee of $0.00 per barrel. Entries of crude oil resulting from Canadian mid-continent exchanges will be subject to the provisions in Section 213.28(b) of the Oil Import Regulations implementing the next to last sentence of Section 4(b)(1) of Proclamation 3279, as amended.

4. Crude oil entered for the Strategic Petroleum Reserve Program, or by any person certified by DOE as acting on its behalf, will not be subject to the crude oil fee but will continue to require a license.

5. Entries of gasoline from the U.S. Virgin Islands and Foreign Trade Zones which have incurred a gasoline entitlements obligation must have a license under Proclamation 4744, but will not be subject to a fee.

6. Entries of ethane, propane, butanes and asphalt continue to be exempt from licensing but the volumes imported must be reported in accordance with current instructions.

7. All persons applying for licenses pursuant to Proclamation 4744 shall submit such information and make such reports as is determined necesssary to carry out the objectives of the proclamation. Information and reports required pursuant to Proclamation 4744, are also authorized to be required by the authority contained in Section 13 of the Federal Energy Administration Act of 1974, as amended, (15 USC Section 761 et seq.) and will be subject to the enforcement provisions contained in Section 11 of the Energy Supply and Environmental Coordination Act of 1974.

8. Gasoline for the purposes of this proclamation means gasoline as that term is defined in Section 212.31 of the Energy Regulations which, for purposes of reference, is as follows: ". . . all of the various grades, other than aviation gasoline, of refined petroleum naphtha which, by its composition is suitable for use as a carburant in internal combustion engines."

9. In lieu of prepayment, a bond or certain other security may be posted for the amount chargeable under the license. In the event the applicant has made timely payment of any fees imposed pursuant to either this proclamation or Proclamation 3279, as amended, for the twelve previous calendar months in which the applicant was obligated to pay

fees, the applicant need only post a bond or provide certain other security for fifty percent (50%) of the total amount chargeable for the license. Bonds must be issued by a surety on the list of acceptable sureties on Federal bonds maintained by the Bureau of Government Financial Operations, Department of the Treasury, which is published in Department of the Treasury Circular 570. The Secretary will review, on a case-by-case basis, all other types of security which an applicant may wish to submit such as an irrevocable letter of credit issued by a bank.

Licenses issued for items 1, 2, 4 and 5 above will be valid for one year from date of issuance. Licenses issued for item 3 will be valid through June 30, 1980, except for licenses issued for Canadian mid-continent crude oil exchanges which will be valid for one year from date of issue.

Copies of the new application forms for imports, as well as a bonding form, are enclosed for your use in applying for the license(s).

If you have any questions concerning this letter, please call the Office of Oil Imports at 202-653-3245 or 202-653-3248.

Sincerely,

James Harkins III

James Harkins III
Director
Office of Oil Imports

Enclosures

U. S. DEPARTMENT OF ENERGY
OFFICE OF OIL IMPORTS

BOND NO.: ________

BOND FOR PAYMENT OF LICENSE FEES AND PENALTIES

Check here if this is used as single license bond ☐
(If this box is checked, the sections of the bond marked "Continuous Bond Only" are excluded.)

PRINCIPAL

AMOUNT OF BOND

Check here is this is used as continuous ☐
(If the box is checked, the sections of the bond marked "Single License Bond Only" are excluded.)

ADDRESS OF BUSINESS OFFICE

SURETY

EFFECTIVE DATE (Continuous Bond Only)

KNOW ALL MEN BY THESE PRESENTS, That we, the above-named principal and surety, are held and firmly bound unto the United States of America in the above amount, lawful money of the United States; for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

(Single License Bond Only)

WHEREAS, the above-bounden principal requests issuance of an import license authorizing entry for consumption or withdrawal from warehouse for consumption of ________ barrels of ________ within the period from ________, to and including ________, and desires issuance of such license prior to the payment of fees therefor;
(quantity) (commodity)

(Continuous Bond Only)

WHEREAS, the above-bounden principal will from time to time request issuance of import license authorizing entry for consumption or withdrawal from warehouse for consumption of petroleum commodities, and desires issuance of such licenses prior to the payment of fees therefor; and

NOW, THEREFORE, the condition of this obligation is such that if the above-bounden principal shall pay to the U.S. Department of Energy, such license fees and penalties as may become due pursuant to Proclamation 4744, dated April 2, 1980, and amendments thereto, then this obligation to be void, otherwise to remain in full force and effect.

THE LIABILITY of the surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall aggregate the penalty of this bond, and in no event shall the surety's total obligation hereunder exceed said penalty.

(Continuous Bond Only)

THIS bond shall continue in effect until discharged or terminated as herein provided. The principal or surety may at any time terminate this bond by written notice to the Office of Oil Imports, U.S. Department of Energy, Post Office Box 19267, Washington, D.C. 20036. Such termination shall become effective thirty (30) days after receipt of said notice by the Office of Oil Imports. The surety shall not be liable for any requests made by the principal after the expiration of said thirty (30) day period but such termination shall not affect the liability of the principal and surety for any breach of condition hereof occurring prior to the date when said termination become effective.

SIGNED and sealed this ________ day of ________, 19 ____

SIGNED, SEALED, and delivered in the present of

Witness for principal:

________ (name) (address) ________ (principal) (seal)

________ (name) (address)

Witness for Surety:

________ (name) (address) ________ (Surety) (seal)

________ (name) (address)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ________ certify that I am the ________ of the corporation named ________ as principal in the within bond; that ________ who signed the said bond on behalf of the principal, was then ________ of said corporation; that I know his signature thereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing body.

________ (seal)

FOR IMPORTS OF CRUDE OIL AND GASOLINE
SUBJECT TO THE GASOLINE CONSERVATION FEE,

Payments shall be in accordance with the
following schedule:

*Fee Schedule

	On or after 12:01 a.m. March 15, 1980
Crude Oil	$4.62 per barrel
Gasoline	$4.35 per barrel

PLEASE RETURN APPLICATION TO:

Director
Office of Oil Imports
P. O. Box 19267
Washington, D.C. 20036

Attn: Mrs. Olga Ronkovich

Please enclose with application a Certified Check, Cashier's Check or Money Order made payable to the:

Treasurer of the United States

or a Surety Bond from a surety company approved by the U. S. Department of Treasury made out to the:

Department of Energy

For information our new telephone number is: (202) 653-3347

Our office address is 2000 M Street, N.W., Room 4208
Washington, D.C. 20461

$$

APPLICATION FOR IMPORTS OF CRUDE OIL AND
GASOLINE REQUIRING A LICENSE FEE
(TO BE FILED IN QUADRUPLICATE)

NAME & ADDRESS OF APPLICANT:

____

____

______________________________ ZIP CODE ________

ATTN: ______________________________

$$

TYPE OF IMPORT LICENSE REQUESTED:

TYPE	BARRELS QUANTITY	*FEE	PAYMENT DUE AND/OR ENCLOSED
Crude Oil	__________ BBLS.	______	______________
Gasoline	__________ BBLS.	______	______________

Check No. ________ Bond No. ________ Total Amount Enclosed ________

Certified Check /__/ Cashier's Check /__/ Money Order /__/

Company Contact ________________ Date ____________________

Phone No. (Area Code) ______________

Signature ____________________

*FEE SCHEDULE ATTACHED

$$

(OFFICE OF OIL IMPORT USE ONLY)

Date Received: ________________ Check No. ____________

Date Issued: ________________ Amount of Check: $ __________

License No.: ________________ Bond No. ____________

APPROVAL: Amount of Bond $ __________

LICENSE CONTROL ALLOCATION & IMPORT CONTROL DIRECTOR, OFFICE OF OIL IMPORTS

* * *

APPLICATION FOR IMPORTS THAT ARE EXEMPT FROM THE GASOLINE CONSERVATION FEE
(U.S. VIRGIN ISLANDS, FOREIGN TRADE ZONES, AND SPRO)
(TO BE FILED IN QUADRUPLICATE) .

NAME AND ADDRESS OF APPLICANT

____

____

________________________ ZIP CODE ________

ATTN: ________________________

PLEASE RETURN TO

Director
Office of Oil Imports
P. O. Box 19267
Washington, D.C. 20

Attn: Mrs. Olga Ron[illegible]vich

* * *

TYPE OF IMPORT LICENSE REQUESTED:

TYPE	BARRELS QUANTITY
Crude Oil (SPRO only)	______________ BBLS.
Gasoline (U.S. Virgin Islands & Foreign Trade Zones)	______________ BBLS.

Company Contact ________________________

Phone No. (Area Code) ____________________

Signature ________________________

Date ________________________

* * *

(OFFICE OF OIL IMPORTS USE ONLY)

DATE RECEIVED: ________________

DATE LICENSE ISSUED: ____________

LICENSE NO.: ________________

APPROVAL:

LICENSE CONTROL	ALLOCATION & IMPORT CONTROL	DIRECTOR OFFICE OF OIL IMPORT
____________	____________	____________

****

APPLICATION FOR IMPORTS SUBJECT TO $0.00 FEE
PURSUANT TO PROCLAMATION 3279, AS AMENDED
FOR UNFINISHED OILS AND
FINISHED PRODUCTS OTHER THAN GASOLINE
(TO BE FILED IN QUADRUPLICATE)

NAME AND ADDRESS OF APPLICANT

____

____

______________________________ZIP CODE________

ATTN:________________________

PLEASE RETURN TO

Director
Office of Oil Import
P. O. Box 19267
Washington, D.C. 2

Attn: Mrs. Olga Rozkovich

****

TYPE OF IMPORT LICENSE REQUESTED:

TYPE	BARRELS QUANTITY
Unfinished Oils and Finished Products (except Gasoline and Residual Fuel Oil)	________ BBLS.
Residual Fuel Oil	________ BBLS.

Company Contact ________________________

Phone No. (Area Code) ____________________

Signature ______________ __________

Date ________________________

****

(OFFICE OF OIL IMPORTS USE ONLY)

DATE RECEIVED: ________________

DATE LICENSE ISSUED: __________

LICENSE NO.: ___________________

APPROVAL:

LICENSE CONTROL	ALLOCATION & IMPORT CONTROL	DIRECTOR OFFICE OF OIL IMPO
______________	______________	__________________

Department of Energy
Washington, D.C. 20461

April 2, 1980

MEMORANDUM: TO WHOM IT MAY CONCERN:

SUBJECT: THE GASOLINE CONSERVATION FEE/ENTITLEMENT PROGRAM -- PRESIDENTIAL PROCLAMATION 4744

In President Carter's address to the nation on March 14, 1980, he announced that, as part of his Anti-Inflation Program, he was taking action with respect to oil imports. In order to adjust imports which threaten national security, the President imposed a Gasoline Conservation Fee on imports of crude oil and gasoline. At the same time he established a Gasoline Entitlements Program to pass all of the cost of this fee onto gasoline. The President acted pursuant to his authority under the Trade Expansion Act and the Emergency Petroleum Allocation Act of 1973, as amended. Presidential Proclamation 4744, which implements the new program, was signed on April 2, 1980, and it applies to crude oil and gasoline entered into the United States after March 14, 1980 and domestic gasoline production after March 14, 1980.

Gasoline Conservation Fee for imported crude oil is $4.62 per barrel. The Gasoline Entitlements Program will pass all of the cost of this fee onto gasoline through the "entitlements" mechanism. The mechanics of such a system are best shown by an example.

Imported

100 BBLS (crude oil)
@ $4.62/BBL = $462.00

Gasoline Producer
110 BBLS (gasoline Production)

National Fees = $462.00

Gasoline Entitlement ($4.20)

$$\underline{\text{National Fees}} = \frac{\$462}{110\ \text{BBLS}} = \$4.20/\text{BBL}$$

Therefore, the Gasoline Producer Pays $4.20/BBL to the importer.

Gasoline Producer Recovery

$$\frac{\$4.20/\text{BBL}}{42\ \text{gal/BBL}} = \$.10/\text{gal}$$

The general mechanics of the Gasoline Entitlements Program are relatively simple. The details of how to count imports of crude oil, who incurs the gasoline entitlement, which barrels incur the gasoline entitlements, and treatment of these costs under DOE regulations are covered in the proclamation.

The enclosed package contains a copy of each of the following documents:

White House Fact Sheet
Proclamation 4744 -- Petroleum
Import Adjustment Program

The Gasoline Producers Monthly Report (ERA-470)
with Instructions

The initial short name/company contact list.

The Gasoline Producers Montly Report (ERA-470) must be completed and returned by all firms which produce gasoline. Those firms receiveing this letter that do not produce gasoline must fill out the cover sheet of the Gasoline Producers Monthly Report (ERA-470) and add a note on the bottom stating that the firm currently has no gasoline production. If such a firm subsequently plans to produce gasoline, it should contact the ERA and must commence filings for the appropriate month. Some firms may receive multiple copies of this letter because various sources were used to identify likely respondents. It is requested that a firm receiving multiple copies file a single consolidated report of its gasoline production and identify on the cover sheet all names and addresses for which the report is being filed.

The ERA-470 (Gasoline Producers Monthly Report) for the month of March 1980 must be received by DOE by May 5, 1980. The report must include your firm's gasoline production for March 1980, as specified in the definition of "gasoline production" in the instructions to the ERA-470.

Because we believe there will be questions about the program, the forms, and a variety of other related issues, the DOE is presenting a panel discussion of the program in Houston, Texas on April 18, 1980. Further details on this briefing will be published in the Federal Register and in the trade press.

Should you or anyone in your firm wish to obtain details on the briefing or discuss the Gasoline Entitlements Program please feel free to contact the staff at 202/653-3347 or 202/653-3873.

If you are aware of any firm engaged in gasoline production but which has not received this form, please notify the Gasoline Entitlements Program staff at the above numbers as soon as possible.

Sincerely,

David A. Welsh
Manager
Entitlements Program
Economic Regulatory Administration

U.S. DEPARTMENT OF ENERGY
Economic Regulatory Administration
Washington, D.C. 20585

Form Approved
OMB No. 038-R-0455

INSTRUCTIONS FOR FILING
GASOLINE CONSERVATION FEE ENTITLEMENTS PROGRAM
GASOLINE PRODUCER'S MONTHLY REPORT

GENERAL INFORMATION

I. Purpose

Form ERA-470 provides the means by which gasoline producers report pursuant to Presidential Proclamation 4744, dated April 2, 1980. It is designed to collect necessary data for each reporting gasoline producer under the provisions of the Gasoline Conservation Fee Entitlements Program.

II. Who Must Submit

Form ERA-470 must be completed by all firms which produce gasoline (domestically) in compliance with the Gasoline conservation Fee Entitlements Program (Presidential Proclamation 4744).

III. Where To Submit

Submit Form ERA-470 in duplicate (original plus one copy) to:

Gasoline Conservation Fee Entitlement Program
20th Street Postal Station
P.O. Box 19326
Washington, D.C. 20036

If you have questions concerning this form, call Mr. David Welsh on (202) 653-3475 and refer to Form 470.

IV. When To Submit

Form ERA-470 must be received by DOE by the fifth (5) day of the second month following the month for which the report is filed. For example: June reporting data must be received by DOE by August 5th.

V. Sanctions

This report is mandatory under Public Laws 93-275, 93-159, and 93-319. Failure to respond may result in criminal fines, civil penalities and other sactions as provided by law.

VI. Provisions For Confidentiality of Information

The information contained on these forms may be 1) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act, 5 USC 552 (b) (4) (FOIA); or 2) prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

GENERAL INFORMATION (Continued)

Therefore, respondents should state briefly and specifically (on an element by element basis if possible), in a letter accompanying submission of the form, why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should not be released to the public, DOE may assume that the respondent does not object to disclosure to the public of any information submitted by it on the forms.

A new written justification need not be submitted each time the ERA-470 is submitted if:

a. views concerning information items identified by respondent as privileged or confidential have not changed and

b. a written justification setting forth the respondents views in this regard have been previously submitted.

Based on section II(d) of ESECA, DOE must provide, upon request, information obtained on this form to the Attorney General, the Secretary of the Interior, and the Federal Trade Commission. In accordance with the cited statutes and other applicable authority, the information must also be made available, upon request, to the Congress or any committee of Congress and the General Accounting Office.

GENERAL INSTRUCTIONS

I. Report all volumes in actual barrels. Negative numbers should be entered with the minus sign to the left of the number.

II. When reporting the short name, it is imperative that the official name listed in the Gasoline Conservation Fee Entitlements List be used. This official name must also be used when reporting processing agreements.

III. If you need more space for entries in Column A, photocopy page 2 and use it as a continuation sheet. In the upper right corner of page 2 *and* all continuation sheets, enter the appropriate numbers in "sheet ___ of ___."

Do not complete columns C & D on the continuation sheets, but carry the numbers forward and include them on the original (first) page 2.

Complete the blocks for Reporting Firm Short Name, Date of Report, and Report Period on the top of each continuation sheet.

DEFINITIONS

I. **Alcohol Feedstock**- that volume of alcohol which the gasoline producer uses as input in the manufacturing process for gasoline and that is not subject to any entitlement obligation.

II. **Amendment** -a resubmission of a previously filed report resulting from an error. The report must be completely resubmitted even for those items which are unchanged. Such reports should be filed as promptly as possible but not later than the last day of the eighth month following the month for which the report was filed.

III. **Firm** - Any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational or other eleemosynary institutions, and the Federal government including corporations, departments, Federal Agencies, other instrumentalities and State and local governments. A firm shall include a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

IV. **Gasoline Entitlement** - the proportionate share which each barrel of gasoline production for a particular month is of the total gasoline conservation fees payable for that month.

V. **Gasoline Feedstock** - that volume of gasoline which the gasoline producer uses as input in the manufacturing process for gasoline, and that has already incurred an entitlement obligation.

VI. **Gasoline Producer** - that person which first manufactures a volume of gasoline by refining, blending or any other process.

VII. **Gasoline Production** - for a particular gasoline producer in a particular month, means the total number of barrels of gasoline manufactured by refining, blending, or any other process in that month by that gasoline producer in the United States, the U.S. Virgin Islands, and a U.S. Foreign Trade Zone. Where incremental volumes of gasoline are manufactured through the addition of substances to gasoline for which gasoline entitlement obligations have already been incurred, only the incremental volumes of gasoline, less any volumes of alcohol, are gasoline production.

Gasoline manufactured by a gasoline producer on behalf of another person shall be included within the gasoline production of the gasoline producer unless the other person is a refiner, in which case the gasoline shall be included within the gasoline production of the other person.

Specific Instructions for March 1980 Production —

For March 1980, a gasoline producer's gasoline production shall be determined by multiplying the number of barrels of that gasoline producer's gasoline production in March 1980 by 17/31; provided, that in the event a gasoline producer can demonstrate that the actual number of barrels of gasoline produced by the gasoline producer in the period March 15 through March 31 was less than 17/31 of that gasoline producer's total gasoline production in March 1980, that gasoline producer may report actual volumes of gasoline production for the period March 15 through March 31.

VIII. **United States** - The fifty states, the District of Columbia, and Puerto Rico.

SPECIFIC INSTRUCTIONS

Item	Instruction
8, 16	Enter the reporting firm short name. The short name is the name as it appears in the Gasoline Conservation Fee Entitlements List. If the reporting firm has not been assigned a short name, enter a pound sign (#) and as much of the firm's name as fits on the line. The DOE will assign a short name after the receipt of the first report.
9	Enter the amendment number on the line provided if the report is an amendment. Mark "X" in the box provided if the report is not an amendment.
10, 17	Enter the date on which this report is completed by year, month, and day. For example: April 2, 1980, would be entered as "Year 8 0 Month 0 4 Day 0 2."
11, 18	Enter the year and month for which this report is submitted.
12-15.	Enter the name and title of the individual designated by the company to sign the certification and the date of signing in the spaces provided on the form.
20119 Column (C)	Enter, in actual barrels, the volume of gasoline produced for your account at your own firm during the reporting period.
20131 to 20138 Columns (A), (B)	Enter the company short name of other firms which produced gasoline for your firm during the reporting period. Use the company short name of the firm that appears in the Gasoline Conservation Fee Entitlements List. If the reporting firm has not been assigned a short name, enter a pound sign (#) and as much of the firm's name as fits on the line. In column (B) enter for each firm named the volume of gasoline produced, in actual barrels during the reporting period.
20139 Column (C)	Enter the volume of gasoline produced for own account at other firms. This figure will be the total of lines 20131, Column (B) through 20138, Column (B), and any attached continuation sheets.
20149 Column (D)	Enter the total volume of gasoline produced, in actual barrels, for the reporting firm's own account. Calculate the total by adding the volume in line 20119, Column (C) to the volume in line 20139, Column (C).
20159 Column (C)	Enter the volume in barrels of gasoline input to the process as feedstock or blendstock.
20169 Column (C)	Enter the volume in barrels of alcohol input to the process as feedstock or blendstock.
20179 Column (C)	Enter the volume in barrels of gasoline produced in Puerto Rico and the U.S. Virgin Islands that is subject to any tax/levy in Puerto Rico and the U.S. Virgin Islands.
20199 Column (D)	Enter the total adjusted volume of gasoline produced, in actual barrels, during the reporting period. Calculate this volume by adding the volume in line 20119, Column (C) to the volume in line 20139, Column (C) and subtracting the volumes in lines 20159, Column (C), 20169, Column (C) and 20179, Column (C). NOTE: Do not preface lines 20159, 20169, or 20179 with a minus sign on the form.

SPECIFIC INSTRUCTIONS (Continued)

20441 to 20448 Columns (A), (B)	List the company short names of other firms for whom the reporting firm had gasoline production during the reporting period. Use the company short name of the firm that appears in the Gasoline Conservation Fee Entitlements List. If the reporting firm has not been assigned a short name, enter a pound sign (#) and as much of the firm's names as fits on the line. In Column(B)enter the volume of gasoline produced, in actual barrels, by each other firm listed.
20449 Column (D)	Enter the total volume of gasoline produced, in actual barrels, for other firms. This entry will be the total of lines 20441, column (B) through line 20448, Column (B) and any attached continuation sheets.

[illegible]
Washington, D.C. [illegible]

OMB No. [illegible]

GASOLINE CONSERVATION FEE ENTITLEMENTS PROGR
GASOLINE PRODUCERS MONTHLY REPORT

This report is mandatory under Public Laws 93-275, 93-159, and 93-319. Failure to respond may result in criminal fines, civil penalties and other sanctions as provided by law.

PART I - IDENTIFICATION DATA ☐ Mark "X" If Any Change In Identification Data

1. Name	2. Street/Box/RFD	
3. City	4. State	5. Zip Code
6. Name of Contact Person	7. Telephone Number (including area code) of Contact Person	
8. Reporting Firm Short Name	9. Amendment Number (If Applicable)*	
10. Date of Report Year ☐☐ Month ☐☐ Day ☐☐	11. Reporting Period Year ☐☐ Month ☐☐	

PART II - CERTIFICATION

I certify that the information shown above and appended hereto (if any) is true and accurate to the best of my knowledge. For information regarding confidentiality of data, see the instructions.

12. Name	13. Title	14. Signature	15. Date

Title 18 USC makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matters within its jurisdiction.

Enter any additional comments here:

[426 US 548]

FEDERAL ENERGY ADMINISTRATION et al., Petitioners,

v

ALGONQUIN SNG, INC., et al.

426 US 548, 49 L Ed 2d 49, 96 S Ct 2295

[No. 75–382]

Argued April 20, 1976. Decided June 17, 1976.

SUMMARY

Eight states and their governors, a number of utility companies, and a Congressman instituted, in the United States District Court for the District of Columbia, two suits against the Secretary of the Treasury, the Administrator of the Federal Energy Administration, and the Treasurer of the United States, seeking declaratory and injunctive relief, the complaints alleging, in substance, that the imposition by the President of the United States of license fees on imports of petroleum and petroleum products exceeded his constitutional and statutory authority. The District Court denied relief. On the plaintiffs' appeals, the Court of Appeals for the District of Columbia Circuit reversed (171 App DC 113, 518 F2d 1051).

On certiorari, the United States Supreme Court reversed the judgment of the Court of Appeals and remanded the case to that court. In an opinion by Marshall, J., expressing the unanimous view of the court, it was held that the President was authorized under § 232(b) of the Trade Expansion Act of 1962, as amended (19 USCS § 1862(b)), to adjust the imports of petroleum and petroleum products by imposing on them a system of monetary exactions in the form of license fees, and that the standards provided to the President by § 232(b) were sufficient to meet any attack of unconstitutional delegation of legislative power.

Briefs of Counsel, p 1273, infra.

OPINION OF THE COURT

[426 US 550]

Mr. Justice Marshall delivered the opinion of the Court.

[1a] Section 232(b) of the Trade Expansion Act of 1962, 76 Stat 877, as amended by § 127(d) of the Trade Act of 1974, 88 Stat 1993, 19 USC § 1862(b) (1970 ed Supp IV) [19 USCS § 1862(b)], provides that if the Secretary of the Treasury finds that an "article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security," the President is authorized to

> "take such action, and for such time, as he deems necessary to adjust the imports of [the] article and its derivatives so that . . . imports [of the article] will not

threaten to impair the national security."[1]

[426 US 551]

All parties to this case agree that § 232(b) authorizes the President to adjust the imports of petroleum and petroleum products by imposing quotas on such imports. What we must decide is whether § 232(b) also authorizes

[426 US 552]

the President to control such imports by imposing on them a system of monetary exactions in the form of license fees.

I

The predecessor statute to § 232(b) was originally enacted by Congress as § 7 of the Trade Agreements Extension Act of 1955, c 169, 69 Stat 166, see n 21, infra, and amended by § 8 of the Trade Agreements Extension Act of 1958, Pub L 85-686, 72 Stat 678. The advisory function currently performed under § 232(b) by the Secretary of the Treasury was performed by the Director of the Office of Defense Mobilization (ODM) under the 1955 and 1958 statutes. But, like § 232(b), those statutes allowed the President, on a finding that imports of an article were threatening "to impair the national security," to "take such action as he deem[ed] necessary to adjust the imports of [the] article . . . ." In 1959, President Eisenhower, having been advised by the Director of ODM that "'crude oil and the principal crude oil derivatives and products are being imported in such quantities and under such circumstances as to threaten to impair the national security,'" invoked the 1958 version of the provision and established the Mandatory Oil Import Program (MOIP). Presidential Proclamation No. 3279, 3 CFR 11 (1959-1963 Comp). The MOIP, designed to reduce the gap between domestic supply and demand by encouraging the development of domestic production and refinery capacity, imposed a system of quotas on the importation of petroleum and petroleum products. The program was not wholly successful, however, and in the face of domestic consumption which continued to grow faster than domestic production, Presidents Kennedy, Johnson, and Nixon each felt compelled to amend it by raising the permissible quota levels. App 211-212.

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[1] Section 232(b) provides in full:

"Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of the Treasury (hereinafter referred to as the 'Secretary') shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from, and shall consult with, the Secretary of Defense, the Secretary of Commerce, and other appropriate officers of the United States, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. The Secretary shall, if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation. The Secretary shall report the findings of his investigation under this subsection with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, his recommendation for action or inaction under this section to the President within one year after receiving an application from an interested party or otherwise beginning an investigation under this subsection. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall so advise the President and the President shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security."

Section 232(c) of the Act, 19 USC § 1862(c) (1970 ed Supp IV) [19 USCS § 1862(c)] provides the President and the Secretary of the Treasury with guidance as to some of the factors to be considered in implementing § 232(b). It provides:

"For the purposes of this section, the Secretary and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Secretary and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security."

[426 US 553]

In light of a Cabinet task force conclusion that the MOIP, as then constituted, was not fulfilling its objectives,[2] President Nixon, acting pursuant to § 232(b), radically amended the program in 1973. Presidential Proclamation No. 4210, 3 CFR 31 (1974). The President suspended existing tariffs on oil imports and provided "for a gradual transition from the existing quota method of adjusting imports of petroleum and petroleum products to a long-term program for adjustment of imports of petroleum and petroleum products through . . . the institution of a system of fees applicable to imports of crude oil, unfinished oils, and finished products . . . ." Id., at 32. This amended program established a gradually increasing schedule of license fees for importers. With respect to crude oil, the fee was scheduled to increase from an initial 10½ cents per barrel on May 1, 1973, to 21 cents per barrel on May 1, 1975. With respect to most finished petroleum products, the fee was to rise gradually from 15 cents per barrel on May 1, 1973, to 63 cents per barrel on November 1, 1975.[3] Id., at 36. While initially some oil imports were exempted from the license fee requirements, the exemption levels were scheduled to decrease annually so that by 1980 the fees would be applicable to all oil imports.

President Nixon's 1973 program apparently did not wholly fulfill the objectives to which it was directed. Accordingly, the Secretary of the Treasury, acting pursuant to § 232(b), see n 1, supra, initiated an investigation on January 4, 1975, "to determine the effects on the national security of imports of petroleum and petroleum products." Memorandum from Secretary of the Treasury Simon to Assistant Secretary of the Treasury

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MacDonald (Simon Memorandum), App 154. While § 232(b) directs the Secretary "if it is appropriate [to do so, to] hold public hearings or otherwise afford interested parties an opportunity to present information and advice" as part of such an investigation, 19 USC § 1862(b) (1970 ed Supp IV) [19 USCS § 1862(b)], the Secretary found that such procedures would interfere with "national security interests" and were "inappropriate" in this case. Simon Memorandum, App 154. The investigation therefore proceeded without any public hearing or call for submissions from interested nongovernmental parties.

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[2] See Cabinet Task Force on Oil Import Control, The Oil Import Question 128 (1970).

[3] Under President Nixon's plan, the fee for motor gasoline was scheduled to reach its maximum of 63 cents on May 1, 1975. App 97.

The Secretary submitted a report on his investigation to President Ford on January 14, 1975. Intimating that the measures then in force under § 232(b) had indeed not solved the problems to which they were directed, the Secretary indicated that the United States' dependence on foreign oil had continued to increase since 1966 and that foreign sources currently accounted for well over a third of domestic consumption. The Secretary concluded that

> "crude oil, principal crude oil derivatives and products, and related products derived from natural gas and coal tar are being imported into the United States in such quantities as to threaten to impair the national security [and] the foregoing products are being imported into the United States under such circumstances as to threaten to impair the national security." App 133.

On the basis of these findings, the Secretary recommended to the President that

> "appropriate action be taken to reduce imports of crude oil, principal crude oil derivatives and products, and related products derived from natural gas and coal tar into the United States . . . ." Ibid.

The President agreed with the findings of the Secretary's investigation and concluded that it was "necessary and consistent with the national security to further discourage importation into the United States of petroleum, petroleum products, and related products . . . ." Presidential Proclamation No. 4341, 3A CFR 2 (1975). Invoking § 232(b), he issued a Proclamation on January 23, 1975, which, effective immediately, raised the so-called "first-tier" license fees that were imposed in 1973, see supra, at 553, 49 L Ed 2d 54, to the maximum levels previously scheduled to be reached only some months later.[4] Presidential Proclamation No. 4341. The Proclamation also imposed on all imported oil, whether covered by the first-tier fees or not, a supplemental fee of $1 per barrel for oil entering the United States on or after February 1, 1975. The supplemental fee was scheduled to rise to $2 a barrel for oil entering after March 1, 1975, and to $3 per barrel for oil entering after April 1, 1975.[5] Finally, the Proclamation reinstated the tariffs that had been suspended in April 1973. Soon after issuance of the Proclamation, the Federal Energy Administration (FEA) amended its oil import regulations in order to implement the new program. 40 Fed Reg 4771–4776 (1975).

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[4] The Proclamation did not alter the schedule by which exemptions from the first-tier fees were not to be eliminated until 1980.

[5] The supplemental fee increases scheduled to go into effect in March and April were twice deferred. See Presidential Proclamation No. 4355, 3A CFR 26 (1975); Presidential Proclamation No. 4370, 3A CFR 45 (1975). While the $2 fee finally went into effect on June 1, 1975, Presidential Proclamation No. 4377, 3A CFR 53 (1975), it was never increased to $3. Indeed, on January 3, 1976, President Ford eliminated the $2 fee. Presidential Proclamation No. 4412, 41 Fed Reg 1037. See n 8, infra.

Four days after the Proclamation was issued, respondents—eight [426 US 556] States and their Governors,[6] 10 utility companies,[7] and Congressman Robert F. Drinan of Massachusetts—challenged the license fees in two suits filed against the Secretary of the Treasury, the Administrator of the FEA, and the Treasurer of the United States in the United States District Court for the District of Columbia. Seeking declaratory and injunctive relief, they alleged that the imposition of the fees was beyond the President's constitutional and statutory authority, that the fees were imposed without necessary procedural steps having been taken, and that petitioners (hereinafter the Government) violated the National Environmental Policy Act of 1969 (NEPA), 83 Stat 852, 42 USC §§ 4321 et seq. [42 USCS §§ 4321 et seq.], by failing to prepare an environmental impact statement prior to the imposition of the fees.

The District Court denied respondents' motions for preliminary injunctions and filed findings of fact and conclusions of law which, at the request of respondents, it later declared to be final. See 71 US App DC 113, 124, 126, 518 F2d 1051, 1062, 1064 (1975) (appendix to dissenting opinion in Court of Appeals). The court found that § 232(b) is a valid delegation to the President of the power to impose license fees on oil imports. Id., at 128–129, 518 F2d, at 1066–1067. It further ruled that the procedures followed by the President [426 US 557] and the Secretary of the Treasury in imposing the license fees fully conformed to the requirements of the statute. Id., at 130, 518 F2d, at 1068. Finally, the court held that "in view of the emergency nature of the problem and the need for prompt action," id., at 131, 518 F2d, at 1069, the Government was not required to file an environmental impact statement prior to imposition of the fees and hence was not in violation of the NEPA. Ibid.

Respondents' appeals from these judgments were consolidated with their petitions to the Court of Appeals for the District of Columbia Circuit for review of the FEA regulations implementing the license fee program. The allegations in the challenges to the regulations were substantially the same as those raised in the District Court actions, adding only a contention that the FEA had failed to follow certain procedural provisions of the Federal Energy Administration Act, 88 Stat 97, 15 USC §§ 761 et seq. (1970 ed Supp IV) [15 USCS §§ 761 et seq.]. The Court of Appeals, with one judge dissenting, held that § 232(b) does not authorize the President to impose a license fee scheme as a method of adjusting imports. 171 US App DC 113, 518 F2d 1051 (1975). According to the court, reading the statute to authorize the action taken by the President "would be an consistently explicit, well-defined anomalous departure" from "the manner in which Congress has delegated control over foreign trade and tariffs." Id., at 117, 518 F2d, at 1055. In the court's view, § 232(b)'s legislative history indicated that Congress' authorization of the President to "adjust the imports of [an] article" encompassed only the use of "direct" controls such as quotas and did not encompass the use of license fees. Id., at 121, 518 F2d, at 1059. Finding no need to address any of the other issues that were raised, the court reversed the judgment of the District Court, instructed

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[6] The States joining in the suit together with their governors were Connecticut, Maine, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. The State of Minnesota intervened as a plaintiff after the complaint was filed and is also a respondent here.

[7] The 10 utility companies are Algonquin SNG, Inc., New England Power Co., New Bedford Gas and Edison Light Co., Cambridge Electric Light Co., Canal Electric Co., Montaup Electric Co., Connecticut Light and Power Co., Hartford Electric Light Co., Western Massachusetts Electric Light Co., and Holyoke Water Power Co.

[426 US 558]

that court to enter appropriate relief for respondents, and set aside the challenged FEA regulations.

[1b, 2a, 3a, 4a] We granted the Government's petition for certiorari, 423 US 923, 46 L Ed 2d 249, 96 S Ct 265 (1975),[8] and now reverse. Both the language of § 232(b) and its legislative history lead us to conclude that it authorizes the action taken by the President in this case.[9]

II

A

[5] Preliminarily, we reject respondents' suggestion that we must construe § 232(b) narrowly in order to avoid

[426 US 559]

"a serious question of unconstitutional delegation of legislative power." Brief for Respondents 42. Even if § 232(b) is read to authorize the imposition of a license fee system, the standards that it provides the President in its implementation are clearly sufficient to meet any delegation doctrine attack.

[6a] In Hampton & Co. v United States, 276 US 394, 72 L Ed 624, 48 S Ct 348 (1928), this Court upheld the constitutionality of a provision empowering the President to increase or decrease import duties in order to equalize the differences between foreign and domestic production costs for similar articles. There, the Court stated:

> "If Congress shall lay down by legislative act an intelligible principle to which the [President] is directed to conform, such legislative action is not a forbidden delegation of legislative power." Id., at 409, 72 L Ed 624, 48 S Ct 348.

Section 232(b) easily fulfills that test. It establishes clear preconditions to Presidential action—inter alia, a finding by the Secretary of the Treasury that an "article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security." Moreover, the leeway that the statute gives the President in deciding what action to take in the event the preconditions are fulfilled is far from unbounded. The President can act only to the extent "he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security." And § 232(c), see n 1, supra, articulates a series of specific factors to be considered by the President in exercising his authority under § 232(b).[10] In light of these factors and [426 US 560] our recognition that "[n]ecessity . . . fixes a point beyond which it is unreasonable and impracticable to compel Congress to prescribe detailed rules . . .," American Power & Light Co. v SEC, 329 US 90, 105, 91 L Ed 103, 67 S Ct 133 (1946), we see no looming problem of improper delegation" that should affect our reading of § 232(b).

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[8] [2b, 3b] Subsequent to our granting certiorari, the President signed the Energy Policy and Conservation Act of 1975, Pub L 94-163, 89 Stat 871, 42 USCA §§ 6201 et seq. (1970 ed Supp V). That Act is aimed at encouraging domestic oil production by gradually decontrolling the price of domestically produced crude oil. On January 3, 1976, indicating that "the purposes of the supplemental [oil import license] fee" will be served by the Act, the President announced the elimination of the supplemental fees imposed by Presidential Proclamation No. 4341 3A CFR 2 (1975) Presidential Proclamation No. 4412, 41 Fed Reg 1037. He did not, however, eliminate the "first-tier" fees originally imposed by Presidential Proclamation No. 4210, 3 CFR 31 (1974). Since respondents seek to enjoin the first-tier as well as the supplemental fees, the question here whether § 232(b) grants the President authority to impose license fees remains a live controversy.

[9] [4b] Respondents' suits are not barred by the Anti-Injunction Act, 26 USC § 7421(a) [26 USCS § 7421(a)], which in relevant part provides that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person . . . ." The Anti-Injunction Act applies to suits brought to restrain assessment of taxes assessable under the Internal Revenue Codes of 1954 and 1939. 26 USC §§ 7421(a), 7851(a)(6)(A), 7851(a)(6)(C)(iv) [26 USCS §§ 7421(a), 7851(a)(6)(A), 7851(a)(6)(C)(iv)]. The license fees in this case are assessed under neither Code but rather under the authority conferred on the President by the Trade Expansion Act of 1962, as amended by the Trade Act of 1974. The fees are therefore not "taxes" within the scope of the Anti-Injunction Act.

[426 US 561]

B

[1c] In authorizing the President to "take such action, and for such time, as he deems necessary to adjust the imports of [an] article and its derivatives," the language of § 232(b) seems clearly to grant him a measure of discretion in determining the method to be used to adjust imports. We find no support in the language of the statute for respondents' contention that the authorization to the President to "adjust"

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[10] Respondents rely on our decision in National Cable Television Assn. v United States, 415 US 336, 39 L Ed 2d 370, 94 S Ct 1146 (1974), to support their delegation doctrine argument. But we find that case clearly distinguishable from the one before us today. In National Cable Television, we held that the fees to be imposed on community antenna television systems should be measured by the "value to the recipient" even though the language of the general statute allowing fee setting by federal agencies, 65 Stat 290, 31 USC § 483a [31 USCS § 483a], permits consideration not only of "value to the recipient" but also of "public policy or interest served, and other pertinent facts." The Court's conclusion that the words of the last-quoted phrase were not relevant to the CATV situation was apparently motivated by a desire to avoid any delegation doctrine problem that might have been presented by a contrary conclusion. 415 US, at 342, 39 L Ed 2d 370, 94 S Ct 1146. But what might be considered the open-ended nature of the phrase "public policy or interest served, and other pertinent facts" stands in contrast to § 232(b)'s more limited authorization of the President to act only to the extent necessary to eliminate a threat of impairment to the national security, and § 232(c)'s articulation of standards to guide the President in making the decision whether to act. See n 1, supra.

[11] [6b] The amount of oil exempted from the "first-tier" license fees, see supra, at 553, 49 L Ed 2d 54, imposed in 1973 varies among five geographical districts within the Nation. See Presidential Proclamation No. 4341, 3A CFR 2 (1975), Presidential Proclamation No. 4210, 3 CFR 31 (1974). Respondents seize on this fact to argue that the "first-tier" fee schedule contravenes Art I, § 8, cl 1, of the Constitution which requires that import duties be uniform throughout the United States. But that issue is not properly before the Court. Sustaining respondents' Uniformity Clause argument would call, not for invalidation of the entire license fee scheme, but only for elimination of the geographical differences in the exemptions allowed under it. This would represent not an affirmance of the judgments below, which effectively invalidated the entire scheme and its implementing regulations, but rather a modification of those judgments. But since respondents filed no cross-petition for certiorari, they are at this point precluded from seeking such modification. See Mills v Electric Auto-Lite Co. 396 US 375, 381 n 4, 24 L Ed 2d 593, 90 S Ct 616 (1970).

imports should be read to encompass only quantitative methods—i.e., quotas—as opposed to monetary methods—i.e., license fees—of effecting such adjustments.

Indeed, reading respondents' suggested limitation into the word "adjust" would be inconsistent with the range of factors that can trigger the President's authority under § 232(b)'s language. Section 232(b) authorizes the President to act after a finding by the Secretary of the Treasury that a given article is being imported "in such quantities or *under such circumstances* as to threaten to impair the national security." (Emphasis added.) The emphasized language reflects Congress' judgment that "not only the quantity of imports . . . but also the circumstances under which they are coming in: their use, their availability, their character" could endanger the national security and hence should be a potential basis for Presidential action. 104 Cong Rec 10542-10543 (1958) (remarks of Rep. Mills). It is most unlikely that Congress would have provided that dangers posed by factors other than the strict quantitative level of imports can justify Presidential action, but that that action must be confined to the imposition of quotas. Unless one assumes, and we do not, that quotas will always be a feasible method of dealing directly with national security threats posed by the "circumstances" under which imports are entering the country, limiting the President to the use of quotas would effectively

[426 US 562]

and artificially prohibit him from directly dealing with some of the very problems against which § 232(b) is directed.

Turning from § 232's language to its legislative history, again there is much to suggest that the President's authority extends to the imposition of monetary exactions—i.e., license fees and duties. The original enactment of the provision in 1955 as well as Congress' periodic reconsideration of it in subsequent years gives us substantial grounds on which to conclude that its authorization extends beyond the imposition of quotas to the type of action challenged here.

During congressional hearings on the Trade Agreements Extension Act of 1955, there was substantial testimony that increased imports were threatening to damage various domestic industries whose viability was perceived to be critical to the national security.[12] In an effort to deal with the problem, the Senate Committee on Finance considered several proposals designed to supplement the existing statutory provision, known as the Symington Amendment,[13] that barred reductions in duties "on any article if the President finds that such reduction would threaten domestic production needed for projected national defense requirements." Act of July 1, 1954, Pub L 464, § 2, 68 Stat

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[12] See, e.g., Hearings on HR 1 before the House Committee on Ways and Means, 84th Cong, 1st Sess, 1006 (analytical balance industry), 1264 (petroleum industry) (1955); Hearings on HR 1 before the Senate Committee on Finance, 84th Cong, 1st Sess, 602 (lead and zinc mining industry), 721 (coal mining industry) (1955).

[13] The Symington Amendment is currently codified in somewhat modified form at 19 USC § 1862(a) [19 USCS § 1862(a)].

360.[14] Among these amendments [426 US 563] was one proposed by Senator Neely which provided in relevant part:

> "[T]he President shall take *such action as is necessary* to restrict imports of commodities whenever such imports threaten to retard the domestic development and expansion or maintenance of domestic production of natural resource commodities or any other commodities which he determines to be essential to the national security. . . ." Hearings on HR 1 before the Senate Committee on Finance, 84th Cong, 1st Sess, 1033 (1955) (hereinafter cited as 1955 Senate Hearings) (emphasis added).[15]

In explaining what action would be authorized under the Neely Amendment, Senator Martin, one of its cosponsors, explained that it authorized the President "to take such action as is necessary, including the imposition of import quotas *or the increase in duties,* to protect the domestic industry concerned." 1955 Senate Hearings 2097 (emphasis added). Thus, the Neely Amendment clearly would have given the President the authority to impose monetary exactions as a method of restricting imports.

While the Neely Amendment was not reported out of committee, it is strikingly similar in language to the Byrd-Millikin Amendment—the substitute provision that was reported out and eventually enacted into law. The Byrd-Millikin Amendment authorized the President, after appropriate recommendations had been made by the Director of the ODM, to "take such action as he deems necessary to adjust the imports of [an] article to a level that will not threaten to impair the national security." S Rep No. 232, 84th Cong, 1st Sess, 14 [426 US 564] (1955).[16] Given the similarity in the operative language of the two proposals, it is fair to infer that if, as Senator Martin stated, the Neely Amendment was intended to authorize the imposition of monetary exactions, so too was the Byrd-Millikin Amendment.

[7a] The debate on the Senate floor lends further support to this reading of the Byrd-Millikin Amendment. Senator Millikin himself stated without contradiction that the Amendment authorized the President "to take whatever action he deems necessary to adjust imports . . . [including the use of] tariffs, quotas, import taxes or other methods of import restriction." 101 Cong Rec 5299 (1955). As a statement of one of the legislation's sponsors, this explanation deserves to be accorded substantial weight in interpreting the statute. National Woodwork Mfrs. Assn. v NLRB, 386 US 612, 640, 18 L Ed 2d 357, 87 S Ct 1250 (1967); Schwegmann Bros. v Calvert Distillers Corp. 341 US 384, 394–395, 95 L Ed 1035, 71 S Ct 745,

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[14] In contrast to the Senate Committee on Finance, the House Committee on Ways and Means concluded that the Symington Amendment was adequate to deal with any potential threats to the national security posed by foreign imports. HR Rep No. 50, 84th Cong, 1st Sess, 44 (1955).

[15] A separate portion of the Neely amendment would have placed quotas on petroleum imports. 1955 Senate Hearings 1033.

[16] Unlike the Neely Amendment, see n 15, supra, the Byrd-Millikin Amendment did not single out any named industries for protection by quotas.

9 ALR2d 1119, 44 Ohio Ops 395, 60 Ohio L Abs 81 (1951).[17]

Senator Millikin's statement does not stand alone. Senator Byrd, another of the Amendment's sponsors, explained in colloquy with Senator Saltonstall that the Amendment put all commodities *"on the same basis as agricultural commodities.* It simply leaves to the President the power, in his discretion, to decide whether to impose a quota or to reduce the imports." 101 Cong

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Rec 5297 (1955) (emphasis added). The reference in the emphasized phrase s to § 22 of the Agricultural Adjustment Act, the subject of an earlier exchange between Senator Byrd and Senator Thye. 101 Cong Rec 5296 (1955). Section 22 allows the President under certain circumstances to *"impose such fees* . . . or such quantitative limitations" as he finds necessary to protect the domestic production of an agricultural commodity. 49 Stat 773, as amended, 7 USC § 624(b) [7 USCS § 624(b)] (emphasis added). Senator Byrd's comparison of § 22 and the Byrd-Millikin Amendment thus appears to reflect his understanding that Presidential authority under the Amendment extended to the imposition of fees.[18]

Finally, we note two other statements on the floor of the Senate which lend direct support to the Government's reading of the Byrd-Millikin Amendment. Senator Bennett stated that it was his understanding that the Amendment would authorize use of "the entire scope of tariffs, quotas, restrictions, stockpiling, and any other variation of these programs in order to protect a particular industry." 101 Cong Rec 5588 (1955).[19] And Senator Barkley, a member of the Senate Committee on Finance, expressed his understanding that the Amendment would allow the President to "impose such quotas *or take such other steps* as he may believe to be desirable in order to

[426 US 566]

maintain the national security." Id., at 5298 (emphasis added).

In the House debate following Senate passage of the Byrd-Millikin Amendment, id., at 5655, and its acceptance with a minor modification by the House conferees, HR Conf Rep No. 745, 84th Cong, 1st Sess, 2, 6–7 (1955), we find further indications that the Amendment authorized the imposition of monetary exactions. In explaining the provisions of the Amendment, Congressman Cooper, chairman of the House Ways and Means Committee and a member of the Conference Committee, indicated his concern that *"any modification*

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[17] [7b] Differing with the Court of Appeals, we do not believe that the fact that Senator Millikin represented a State that might have benefited from an expansive reading of the statute "blur[s] [the] probative value," 171 US App DC 113, 120, 518 F2d 1051, 1058 (1975), of his explanation. Many if not most pieces of legislation are sponsored by Members of Congress whose constituents have a special interest in their passage, but we have never let this fact diminish the weight we give a sponsor's statements.

[18] Moreover, Senator Byrd's reference in the above-quoted exchange to the power of the President under the Amendment "to impose a quota *or* to reduce the imports," 101 Cong Rec 5297 (1955), also suggests that he understood that power to extend beyond the imposition of quotas. See Note, 89 Harv L Rev 432, 435 n 31 (1975).

[19] The Court of Appeals characterized Senator Bennett's remarks as going to "the entire bill and other existing laws." 171 US App DC, at 119, 518 F2d, at 1057. Our examination of the context of his remarks persuades us, however, that they were more probably made with specific reference to the Byrd-Millikin Amendment.

of a duty on imports or a quota would [because of retaliation from abroad] inevitably result in a curtailment of exports by the United States." 101 Cong Rec 8161 (1955) (emphasis added). Furthermore, as part of his explanation of the Amendment, Cooper presented a letter he had received from Gerald D. Morgan, Special Counsel to the President, which expressed the Administration's understanding that under the Amendment, the President's action to adjust imports "could take any form that was appropriate to the situation." Id., at 8162.[20] Thus, when Congress finally enacted the Byrd-Millikin Amendment's national security provision, 69 Stat 166,[21] as part of the Trade Agreement Extension Act of 1955, not only had Members of both Houses indicated that the provision authorized the imposition of monetary exactions, but the Executive Branch, too, had advised the Congress of its understanding of the broad scope of the authority granted by the amendment.[22]

Three years later, in the context of its consideration of the Trade Agreements Extension Act of 1958, Congress re-examined the Byrd-Millikin national security provision. In the course of its deliberations, the Subcommittee on Foreign Trade Policy of the House Ways and Means Committee had before it a 1957 report submitted to it by the ODM, expressing the views of the Executive Branch that "the imposition of new or increased tariff duties on imports . . . [was] authorized by the language adopted."[23] Fully aware that the Executive Branch then, as in 1955, understood the provision as authorizing the imposition of monetary exactions, the Committee did not recommend any change in its wording to confine more narrowly the bounds of its authorization. On the contrary, the Committee in its report indicated with approval its own understanding

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[20] A copy of the Morgan letter was also sent to Senator Byrd, Chairman of the Senate Committee on Finance. See 101 Cong Rec 8162 (1955).

[21] As finally enacted the Amendment provided:

"In order to further the policy and purpose of this section, whenever the Director of the Office of Defense Mobilization has reason to believe that any article is being imported into the United States in such quantities as to threaten to impair the national security, he shall so advise the President, and if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made to determine the facts. If, on the basis of such investigation, and the report to him of the findings and recommendations made in connection therewith, the President finds that the article is being imported into the United States in such quantities as to threaten to impair the national security, he shall take such action as he deems necessary to adjust the imports of such article to a level that will not threaten to impair the national security."

[22] We are not unmindful that, as respondents point out, much of the congressional debate referred to the Byrd-Millikin Amendment in the context of giving the President the power to impose import quotas. See, e.g., 101 Cong Rec 5572 (1955) (remarks of Sen. Humphrey); id., at 5582, 5584 (remarks of Sen. Douglas); id., at 5593 (remarks of Sen. Monroney). But nowhere do the congressional debates reflect an understanding that under the Amendment the President's authority was to be *limited* to the imposition of quotas. In light of this fact, we feel fortified in attaching substantial weight to the positive indications discussed above that the authority was not so limited.

[23] Foreign Trade Policy, Compendium of Papers on United States Foreign Trade Policy Collected by the Staff for the Subcommittee on Foreign Trade Policy of the House Ways and Means Committee 643 (1958).

that the statute provided "those best able to judge national security needs . . . [with] a way of taking *whatever action is needed* to avoid a threat to the national security through imports." HR Rep No. 1761, 85th Cong, 2d Sess, 13 (1958) (emphasis added).

While Congress in 1958 made several procedural changes in the statute and established criteria to guide the President's determination as to whether action under the provision might be necessary, it added no limitations with respect to the type of action that the President was authorized to take.[24] § 8, 72 Stat 678. The 1958 re-enactment, like the 1955 provision, authorized the President under appropriate conditions to "take such action" "as he deems necessary to adjust the imports . . . ." Ibid.

When the national security provision next came up for re-examination, it was re-enacted without material change as § 232(b) of the Trade Expansion Act of 1962. In its analysis the Court of Appeals placed great emphasis on the fact that in the course of Congress' deliberations the Senate passed and the Conference Committee deleted, HR Conf Rep No. 2518, 87th Cong, 2d Sess, 13 (1962), an amendment which provided:

> "Notwithstanding any other provision of law, the [426 US 569] President may, when he finds it in the national interest, proclaim with respect to any article imported into the United States—
>
> "(1) the increase of any existing duty on such article to such rate as he finds necessary;
>
> "(2) the impositon of a duty on such article (if it is not otherwise subject to duty) at such rate as he finds necessary, and
>
> "(3) the imposition of such other import restrictions as he finds necessary." 108 Cong Rec 19573 (1962).

The Court of Appeals inferred from the rejection of this amendment that Congress understood the then existing grant of authority to be limited to the imposition of quotas. According to the court, the amendment would have "explicitly [given] the President the same authority he claims derives implicitly from § [232(b),]" 171 US app DC, at 121, 518 F2d, at 1059, and Congress' refusal to enact the amendment was tantamount to a rejection of the Government's interpretation of the statute.

We disagree, however, with the Court of Appeals' assessment of the proposed amendment. The amendment was in reality far more than an articulation of the authority that the Government finds to be contained in § 232(b). Unlike § 232(b), the rejected proposal would not have required a prior investigation and findings by an executive department as a prerequisite to Presidential action. Moreover, the broad "national interest" language of the proposal, together with its lack of any standards for implementing that language, stands in stark contrast with § 232(b)'s narrower criterion of "national security" and § 232(c)'s articulation of standards to guide the invocation of the President's powers under § 232(b). In light of these clear differences between

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[24] Indeed, while under the 1955 provision the President was authorized to act only on a finding that "quantities" of imports threatened to impair the national security, the 1958 provision also authorized Presidential action on a finding that an article is being imported "under such circumstances" as to threaten to impair the national security. 72 Stat 678. See supra, at 561, 49 L Ed 2d 59

[426 US 570]

the rejected proposal and § 232(b), we decline to infer from the fact that the Senate amendment was proposed, or from the fact that it was rejected, that Congress felt that the President had no power to impose monetary exactions under § 232(b).

Only a few months after President Nixon invoked the provision to initiate the import license fee system challenged here, Congress once again re-enacted the Presidential authorization encompassed in § 232(b) without material change. Trade Act of 1974, Pub L 93-618, 88 Stat 1993. Making no mention of the President's action, both the Senate Committee report and the conference report recited the language of the statute itself to reaffirm that under § 232(b) the President "may . . . take such action, and for such time, as he deems necessary, to adjust imports so as to prevent impairment of the national security." HR Conf Rep No. 93-1644, p 29 (1974); S Rep No. 93-1298, pp 96–97 (1974). The congressional acquiescence in President Nixon's action manifested by the re-enactment of § 232(b) provides yet further corroboration that § 232(b) was understood and intended to authorize the imposition of monetary exactions as a means of adjusting imports.

[1d] Taken as a whole then, the legislative history of § 232(b) belies any suggestion that Congress, despite its use of broad language in the statute itself, intended to limit the President's authority to the imposition of quotas and to bar the President from imposing a license fee system like the one challenged here. To the contrary, the provision's original enactment, and its subsequent re-enactment in 1958, 1962, and 1974 in the face of repeated expressions from Members of Congress and the Executive Branch as to their broad understanding of its language, all lead to the conclusion that § 232(b) does in fact

[426 US 571]

authorize the actions of the President challenged here. Accordingly, the judgment of the Court of Appeals to the contrary cannot stand.

C

A final word is in order. Our holding today is a limited one. As respondents themselves acknowledge, a license fee as much as a quota has its initial and direct impact on imports, albeit on their price as opposed to their quantity. Brief for Respondents 26. As a consequence, our conclusion here, fully supported by the relevant legislative history, that the imposition of a license fee is authorized by § 232(b) in no way compels the further conclusion that *any* action the President might take, as long as it has even a remote impact on imports, is also so authorized.

The judgment of the Court of Appeals is reversed and this case is remanded to that court for proceedings consistent with this opinion.

So ordered.

federal register

THURSDAY, MARCH 29, 1979
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF THE TREASURY

EFFECTS OF OIL IMPORTS ON NATIONAL SECURITY

Publication of Report of Investigation

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

EFFECTS OF OIL IMPORTS ON NATIONAL SECURITY

Publication of Report of Investigation To Determine the Effects on the National Security of Oil Imports

Notice is hereby given pursuant to section 232(d) of the Trade Expansion Act of 1962, as amended, 19 U.S.C. 1962, and 31 CFR 9.9, of the publication of a report by the Secretary of the Treasury to the President of an investigation under section 232(b) of the same Act. The Secretary of the Treasury initiated this investigation on March 15, 1978, to determine the effects on the national security of imports of crude oil, crude oil derivatives and products, and related products derived from natural gas and coal tar (referred to collectively as "oil"). The report to the President, dated March 14, 1979, states that oil imports are entering the United States in such quantities and under such circumstances as to threaten to impair the national security. Accordingly, the report recommends that action be taken to reduce domestic oil consumption and increase domestic production of oil and other sources of energy, by providing appropriate incentives and eliminating programs and regulations which inhibit the achievement of these goals. The report notes that specific recommendations on achieving these conservation and production objectives are being evaluated in an interagency group charged with presenting the President with policy options for his consideration.

The Secretary's report to the President is based on the investigation conducted by the General Counsel of the Treasury Department. The General Counsel's report of that investigation examines the nation's growing dependence on imported oil, particularly since 1975, when Secretary of the Treasury Simon reported to President Ford that oil imports threatened to impair the national security, and concludes that the threat to the national security is greater now than before.

During the course of his investigation, the General Counsel solicited (see 44 FR 7264 (1979)) and considered comments from the public as well as from a number of agencies. The agencies' comments are appended to the General Counsel's report. The Secretary's report to the President and the General Counsel's report are published herein and copies thereof are available through the Office of Public Affairs, Department of the Treasury, by contacting the individual listed at the conclusion of this notice. Comments received from other agencies and the public in the course of this investigation are available for public reading and copying at the Library of the Treasury Department, Room 5030, Main Treasury, 15th and Pennsylvania Avenue NW., Washington, D.C.

The principal authors of these reports were Leonard E. Santos, Dell V. Perry, William E. Steger, Cathryn A. Goddard, Ernest F. Chase, and Barry S. Newman of the Office of the Secretary of the Treasury. Contact Alvin M. Hattal, (202) 566-8381.

Dated: March 21, 1979.

ROBERT H. MUNDHEIM,
General Counsel.

MEMORANDUM FOR THE PRESIDENT FROM THE SECRETARY OF THE TREASURY

SUBJECT: REPORT OF SECTION 232 INVESTIGATION ON OIL IMPORTS

MARCH 14, 1979.

I have completed the investigation I initiated last year pursuant to Section 232 of the Trade Expansion Act of 1962 to determine whether oil* imports are entering the United States in such quantities or under such circumstances as to threaten to impair the national security. I am transmitting herewith a detailed report of our investigation.

On January 14, 1975, acting pursuant to the same Section 232 authority, Treasury Secretary Simon found that the nation's dependence on imported oil was so great as to threaten to impair the national security and recommended to President Ford that action be taken to remove the threat. That conclusion is, unfortunately, even more valid today.

The nation's dependence on imported oil has increased dramatically since the 1975 finding. At the time of Secretary Simon's finding, 37 percent of United States demand for oil was supplied from foreign sources. In 1978, oil imports accounted for 45 percent of oil consumed in the United States. During that same period, the nation become more depandent on oil to meet overall energy demand, and oil imports increasingly originated in a small number of distant foreign countries. The increasing dependence on foreign sources of oil is a consequence of both rising levels of consumption and declining domestic production.

This growing reliance on oil imports has important consequences for the nation's defense and economic welfare. Because so much of the oil used in the United States originates thousands of miles away, supplies are vulnerable to interruption from a variety of causes. Recent developments in Iran have dramatized the consequences of this excessive dependence of foreign sources of petroleum. Furthermore, the rising level of oil imports adversely affects our balance of trade and our efforts to strengthen the dollar; in 1978, outflows of dollars for our oil imports amounted to $42 billion, $15 billion more than in 1975 and offsetting much of the rise in our exports of industrial and farm products.

The continuing threat to the national security which our investigation has identified requires that we take vigorous action at this time to reduce consumption and increase domestic production of oil and other sources of energy. To the extent feasible without impairing other national objectives, we must encourage additional domestic production of oil and other sources of energy, and the efficient use of our energy supplies, by providing appropriate incentives and eliminating programs and regulations which inhibit the achievement of these important goals.

Specific recommendations on achieving these conservation and production objectives are being evaluated by an interagency group in which Treasury is participating. The committee's work will be finished shortly and specific policy options will be formulated for your consideration.

W. MICHAEL BLUMENTHAL.

REPORT OF INVESTIGATION UNDER SECTION 232 OF THE TRADE EXPANSION ACT, 19 U.S.C. 1862, AS AMENDED

I. INTRODUCTION

1. Background.

Section 232(b) of the Trade Expansion Act of 1962 authorizes the President to take action to adjust imports of crude oil, crude oil derivatives and products and related similar products derived from natural gas and coal tar (hereinafter referred to collectively as "oil") if the Secretary of the Treasury finds that such commodities are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

Previous findings that oil imports threaten to impair the national security were made in 1959 and 1975.[1] Those findings have served as the basis for programs to control oil imports, first by means of quotas and later through use of license fees.[2] The use of license fees was upheld by the United States Supreme Court in an opinion which emphasized the breadth of the remedies permitted under Section 232(b).[3] On its face, Section 232(b) authorizes any remedy reasonably related to the adjustment in the importation of a particular article.

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*The term "oil", as used in this report, means crude oil, crude oil derivatives and products, and related products derived from natural gas and coal tar.

This investigation was initiated by the Secretary of the Treasury on March 15, 1978 (see Appendix A—Order Initiating Investigation) to examine developments since 1975 and to determine:

1. Whether increased reliance (since 1975) on oil imports from a small number of distant foreign suppliers continues to threaten to impair the national security.

2. Whether the monetary repercussions accompanying continued large payments outflows for oil imports threaten to impair the national security.

At the time he initiated the investigation, the Secretary of the Treasury stated that the investigation was to be undertaken for contingency purposes only and that it should be conducted on a confidential basis. Initially, in the Secretary's judgment, national security interests required that public comments not be invited. Accordingly, the Secretary requested the General Counsel to proceed immediately with the investigation. Information and advice were solicited from the following agencies in the course of the investigation: Central Intelligence Agency, Department of Defense, Department of Energy, National Security Council, Federal Reserve Board, Department of State, Council of Economic Advisers, Department of Commerce, Department of Labor, Department of the Interior, and Department of Transportation. On February 2, 1979, the Secretary invited comments from the public, having reviewed his earlier determination and concluded that it was then appropriate to issue the invitation. None of the agency submissions or public comments challenged the proposition that oil imports threaten to impair the national security. The overwhelming conclusion of these submissions and comments is that such a threat continues to exist.

2. Conclusion.

The conclusion of this report is that oil continues to be imported in such quantities and under such circumstances as to threaten to impair the national security. This threat arises both from increased reliance on a small number of foreign oil suppliers and the monetary repercussions accompanying continued large payments outflows for imported oil. Unlike temporary crises in the nation's ability to satisfy its oil import needs, the national security threat arising from growing reliance on imported oil has its gravest implications in the long-term.

II. INCREASED RELIANCE ON OIL IMPORTS FROM A RELATIVELY SMALL NUMBER OF FOREIGN SUPPLIERS THREATENS TO IMPAIR THE NATIONAL SECURITY

1. A threat to the national security has previously been established.

The 1959 finding. In 1959, the President's Special Committee to Investigate Crude Oil Imports determined that oil imports constituted a threat to the national security.[4] The Committee concluded that, in order to have enough oil to meet the nation's security needs, "there must be a limitation on imports that will insure a proper balance between imports and domestic production . . . [Absent that balance,] in an emergency the nation would be confronted with all of the liabilities inherent in a static, as contrasted with a dynamic, mobilization base, including the delays, waste and inefficiency that accompany efforts to stengthen any part of the mobilization base on a 'crash' basis."[5]

The 1975 finding. In 1975 the Secretary of the Treasury found that oil imports threatened to impair the national security. That investigation considered all factors relevant to a finding under Section 232(b), including the relationship of the nation's economic welfare to its national security. The Treasury report concluded that oil imports should be reduced in order to "wean ourselves away from a dependence upon imported oil, conserve our use of petroleum, promote the use of alternative sources of energy, and at least in part, stanch the outflow of payments resulting from our purchases of this commodity."[6]

Congressional declarations. In August 1977, Congress, in enacting Title I of the Department of Energy Organization Act, declared that the "energy shortage and our increasing dependence on foreign energy supplies present a serious threat to the national security of the United States."[7] This declaration echoed an earlier Congressional finding in section 2 of the Emergency Petroleum Allocation Act of 1973 that oil shortages will create severe economic dislocations and hardships which constitute a national energy crisis threatening the public health, safety and welfare.[8] More recently, section 102 of the National Energy Conservation Policy Act of 1978 emphasized the need to stem the nation's increasing reliance on imported oil and the vulnerability which accompanies such reliance.[9]

2. The nation has increased its dependency on a small number of distant foreign oil suppliers.

Since 1975, United States oil imports have increased as a share of oil consumed and of all energy consumed in the United States. In addition, because oil imports increasingly originate from a small number of foreign and mostly distant sources, they have become more vulnerable to interruption.

Level of oil imports. Oil imports have risen steadily over the past 20 years.[10]

1958	1.8 mmbpd (million barrels per day).
1975	6.1 mmbpd.
1978	8.7 mmbpd (including the Strategic Petroleum Reserve)

Over the same period, oil imports have increased both as a share of domestic demand for oil.[11]

1958	18%
1975	38%
1978	43%

and as a share of demand for energy of all types.[12]

1958	9%
1975	17%
1978	22%

A growing share of our oil imports come from OPEC nations:[13]

1958	70%
1975	73%
1978	83%

Oil imports averaged 8.1 mmbpd during 1978—down 6 percent from 1977.[14] However, this decline resulted from a rundown of domestic inventories and a one-time buildup of Alaskan production which more than offset the 1.6 percent rise in domestic oil demand and the 4 percent decline from 1977 in the crude oil production of the lower 48 States.[15] Alaskan oil, which began to flow in June 1977, approached the capacity pipeline flow of 1.2 mmbpd in the second quarter of 1978.[16]

Sources of oil imports. In the early 1960's, Venezuela was the largest external supplier of oil to the United States, providing about 46 percent of total oil imports.[17] Later Canada (non-OPEC) became a large supplier, accounting for about 22 percent of imports by 1970.[18] However, imports from Venezuela have declined sharply as a percentage of total imports, and Canada has adopted procedures which could virtually phase out all light crude oil exports to the United States by 1981.[19] As imports from these traditional Western Hemisphere suppliers have receded in significance, there has been a corresponding rise of the nation's reliance on Eastern Hemisphere sources, particularly those in the Middle East. The proportion of oil imports originating in Middle Eastern countries was:[20]

1958	31%
1975	27%
1978	34%

For the next decade, the United States will probably continue to rely heavily on Middle Eastern supply sources. Although recent developments in Iran have diminished expectations for continuing the previous levels of production in that country, in all likelihood, U.S. dependence on other Middle Eastern producers will increase further.[21]

As oil production in the United Kingdom and Norwegian sectors of the North Sea develops, some demand for Middle Eastern oil will shift to North Sea oil. However, the changeover is likely to have its greatest effect on the European markets, with substantial U.S. reliance on Middle Eastern oil remaining relatively undiminished. The expanding production in Mexico, for which the United States forms a natural market, offers another alternative to imported Middle Eastern oil. Nevertheless, through 1985, U.S. dependence on Middle Eastern producers is not expected to be reduced significantly because of the development lead time required.

Value of oil imports. Not only has the volume of U.S. oil imports expanded, but the landed price of foreign petroleum has jumped sharply as well. For example, the average unit value (f.a.s.) of U.S. petroleum imports has risen as follows:

1958	$2.26 pb (per barrel).
1977	$11.45 pb.
1978	$13.29 pb.

As a consequence, the nation's annual oil import bill has grown dramatically over the past 20 years:

1958	$1.5 billion.
1977	$37.0 billion.
1978	$42.3 billion.

The cost of oil imports may be expected to increase further in 1979 as a result of the OPEC price increase of 14.5 percent—fourth quarter to fourth quarter—agreed upon at the meeting of OPEC ministers in December. Recent interruptions in Iranian production have put upward pressure on market prices and have prompted many oil producers to seek to obtain price increases beyond those scheduled in the December OPEC price decision.

3. The risk of detrimental interruption has not lessened.

Risk of interruption. As noted above, the U.S. is heavily dependent for its imported oil on a small number of distant countries. These countries are a diverse group of nations with different resources and goals. While, in the main, the U.S. shares common interests with them, there are also some areas of political disagreement. In 1973, some of these countries demonstrated their willingness to use oil as a political weapon. For the first time in history, this country's access to major petroleum supplies was cut off by an embargo, as a result of dissatisfaction with our foreign policy. This action was prompted by a major military conflict in the Middle East. Although hostilities have generally subsided, the underlying political dispute has not yet been resolved. Despite the intervening years and strengthened relations with Middle Eastern nations, the United States cannot discount the possibility of another political disagreement with the nations on which it depends for its oil supplies.

In addition, recent developments in Iran have highlighted the potential for internal domestic upheavals to disrupt oil supplies. As a result of the events beginning with a strike in October 1978, Iranian exports until very recently have been limited to small amounts of heavy residual oil not usable within Iran. Although Iranian oil exports have been renewed, the Iranian government has stated its intention to limit oil exports to 3 mmbpd, well below the 5 mmbpd level that prevailed before the interruptions. Even though Iranian oil accounted for only 5 percent of U.S. oil consumption prior to December 1978, Secretary Schlesinger recently indicated that the continued interruption of even this relatively less important U.S. supply source could require the U.S. to consider mandatory conservation measures. This assertion serves to emphasize, as the Central Intelligence Agency has noted, the vulnerability of the U.S. economy to supply disruption. See Appendix B—Compilation of Agency Submissions.

Furthermore, other types of supply interruption are possible. For example, six of the Middle Eastern nations which are major suppliers of oil to the U.S. ship their oil through the narrow Strait of Hormuz at the southern end of the Arabian Gulf. This geographical situation alone renders this oil supply route vulnerable. Moreover, the producing nations themselves face a risk of terrorist action with attendant harm to oil production and shipment facilities. Indeed, the Central Intelligence Agency has stated:

> There is a high probability that acts of nature, human error, or deliberately targeted terrorist attack will interrupt the flow of oil in one or more of the oil exporting nations during the next several years.
>
> Interruptions of oil supply owing to guerrilla operations, acts of terrorism, or acts of nature are not likely, by themselves, to be of a magnitude and duration which would result in severe economic disruption of Free World economies, though they could exert strong upward pressure on prices in a tight world oil market. Extensive terrorist action against key oil storage and transportation facilities in the Persian Gulf could, in particular, significantly affect the market by substantially reducing oil supplies for the time required to put those facilities back into operation, which could be several months.

See Appendix B—Compilation of Agency Submissions.

According to the Defense Department:

> The concentration of oil production facilities in the area presents the major physical risk. This creates a risk of interdiction, or even the risk of natural or accidental disturbances. The extensive damage in the Abqaiq fires in May and June 1977, caused by accident, highlights the fragility of these facilities. Destruction of key facilities could cause major interruptions of oil deliveries to the U.S. and to our NATO and Japanese allies which would adversely affect U.S. and Western World political, economic and military security.

See Appendix B—Compilation of Agency Submissions.

In short, the overall potential for an embargo or other interruption has not decreased since the embargo of 1973, nor since the 1975 finding by the Secretary of the Treasury that such a risk threatened to impair the national security. On the contrary, developments in Iran demonstrate that U.S. oil imports can be seriously affected by internal disruptions in a country even if it is not a primary supplier of the U.S. oil-imports. Disruption in any source of supply serves to concentrate U.S. reliance on the other supply sources and, at a minimum, leads to unscheduled price increases, thereby increasing the nation's vulnerability.

Strategic petroleum reserve only recently initiated. Congress has ordered the establishment of a Strategic Petroleum Reserve (SPR) to reduce the impact of a potential interruption. However, the reserve currently contains only about 77 million barrels, or 7.7 percent of the one billion barrel goal proposed by the Department of Energy for 1985.

International Energy Agency Sharing Plan gives limited protection. To minimize the effect on member countries of oil shortages created by an embargo or other circumstances, the United States and the 19 other International Energy Agency (IEA) member countries have agreed to an International Energy Program under which allocation of oil and mandatory demand and restraint measures can be triggered when the group as a whole sustains a 7 percent reduction in oil import supplies or when any one country (or group of countries) sustains a 7 percent reduction in its oil supplies. Each country is required to have demand restraint mechanisms in place that are capable of reducing its oil consumption by 7 percent—about three and one half mmbpd for the IEA countries as a group based on IEA estimates of probable 1980 consumption. The supply sharing mechanism is coupled to the activation of the demand restraint program. In addition, countries have the obligation to build stocks equivalent to 60 days of imports.

The interruption of Iranian oil exports has not led to activation of the IEA oil-sharing agreement. Nevertheless, IEA member countries are greatly concerned regarding the current situation in the oil market, which has brought severe pressure on prices. Accordingly, the IEA Governing Board, meeting on March 1-2, 1979, agreed that IEA countries would promptly reduce their demand for oil on the world market by about 2 mmbpd. This amount corresponds to about 5 percent of IEA consumption. The share of the U.S. in this reduction would be just under one mmbpd.

The degree of protection afforded by the combined SPR and IEA sharing plans depends on a number of variables, including the amount of oil stored at the time of any interruption, as well as the magnitude and length of the interruption. The current level of protection afforded by the existing SPR and contingency conservation plans is limited. Because of the relatively small inventory in the SPR at the present time, conservation contingency plans take on added significance as a means of meeting our March 2 commitment to the IEA or, more generally, our potential commitment under the provisions of the IEA. Besides measures to reduce oil consumption by encouraging the use of natural gas, which is temporarily in surplus, and by shifting to non-oil generated electric power, the Administration has submitted to Congress for approval three contingency conservation plans. These three conservation plans, which were submitted on March 1, are estimated to save as much as 614,000 bpd. It is anticipated that these demand restraint plans will play a significant part in achieving the consumption reduction agreed upon on March 2 or in meeting our obligations in case of activation of the international sharing plans.

Impact of the National Energy Act on oil imports. It is estimated the National Energy Act will save between 2.4 and 3.0 mmbpd of oil imports by 1985. Sizeable savings will occur from the displacement of imported oil by additional supplies of domestically produced natural gas. This potential displacement is estimated to be in excess of one mmbpd. Increased gas supplies are anticipated to result primarily from provisions in the National Energy Act which raise the prices of natural gas and permit tapping supplies, formerly available only to the intrastate market, for the interstate market.

At the beginning of 1979 there were variously estimated to be between 1 and 1.4 trillion cubic feet of additional natural gas supplies immediately available as a result of the National Energy Act. If these supplies were promptly put to use, they could displace over 500,000 bpd of imported oil for the next two or three years. However, there is uncertainty as to how much oil consuming equipment can be physically converted to use the additional gas and whether or not such conversion will be practical for the short term.

In summary, while the provisions of the National Energy Act are estimated to reduce oil imports by about 2.5 mmbpd by 1985, for the immediate future, reductions in oil use will be modest and will not significantly lessen U.S. vulnerability to disruptions in foreign supply.

Limited possibilities for the development of alternative energy sources. Despite national programs to encourage use of alternative energy sources, immediate savings from conversion to other fuels are limited by the time required to change existing energy-using capital stock, i.e., industrial equipment, buildings, and transportation vehicles. For example, the conversion of industrial plants and electric utilities from oil and gas use to coal is slow, costly and constrained by environmental considerations. Thus, despite the recent emphasis on shifting the source of energy in major oilburning installations, the use of oil in utility plants increased from 396 mmb in 1971 to 634 mmb in 1977.

In the last decade, nuclear generating capability has grown, but nuclear power's share of domestic energy production remains small. The power generated from nuclear plants increased from 38.1 billion kilowatt hours in 1971 to 250.9 billion kilowatt hours in 1977. Even so, nuclear sources provide only about 4 percent of total energy production. As the United States' nuclear capability increases, demand for oil and gas by utilities may decline, but at a slow rate. In addition, the lead time currently required for placing a nuclear power plant in operation is 10-12 years. Overall, the provisions of the National Energy Plan anticipated that nuclear power would reach an oil equivalent of 3.8 mmbpd by 1985, up from 1.0 mmbpd oil equivalent in 1976. However, more recent projections of nuclear power generation provided by the Energy Information Administration to Congress are somewhat lower.

To date, renewable sources of energy, such as solar, wind, and geothermal, have not made significant contributions as substitutes for oil and gas. The 1977 National Energy Plan forecasts that these domestic energy supplies will increase from 1.5 mmbpd of oil equivalent in 1976 to 1.7 mmbpd oil equivalent in 1985. This increase of only 200,000 bpd of oil equivalent indicates that any significant energy contribution from such new sources will not take place until after 1985.

Expanded domestic production hampered under current conditions. Domestic production of crude oil has declined, from a peak of 9.6 mmbpd in 1970 to 8.7 mmbpd in 1978, despite the addition of production from the Alaskan North Slope. Production from Alaska began in 1977 and by 1978 reached the current design capacity of the Alaskan pipeline of 1.2 mmbpd. Absent further incentives for the sale of Alaskan crude, production is estimated to remain at this level offering no further offset to the decline in production in the lower 48 states.

Of particular concern is the rapid decline of lower tier "old" oil production under the current pricing structure. The production of old oil is important because it constituted over 30 percent of domestic production at the beginning of 1977.

Production of old oil was projected to decline from 3.5 mmbpd in 1978 to 1.96 mmbpd by 1985, an annual decline rate of 8 percent over the seven year period. However, Treasury studies have placed the actual annual decline rate for old oil at over 16 percent for the 12 month period beginning in December 1977. Decline rates are greatly influenced by the economics of production which may account for the abnormally high rates experienced in recent months.

Proven domestic reserves of crude oil have declined steadily from 39 billion barrels in 1970 (at the time of the Alaskan North Slope discovery) to an estimated 29.5 billion barrels at the end of 1977. Moreover, subsequent to the discovery of oil at Prudhoe Bay, the new reserves added each year have not equaled annual production. The outlook for discovering significant quantities of new domestic petroleum reserves is uncertain from a geological standpoint. Undiscovered oil resources in the U.S. are estimated to range from 46 to 143 billion barrels with a median amount of roughly three times the current proven reserves. New reserves can only be proven by drillings. In addition, there is a significant potential for enhanced recovery from known deposits of oil.

Domestic production from existing wells has been hampered by price regulations that discourage some categories of marginal production. There are indications that at $15 per barrel (1976 $), enhanced production may amount to as much as 1.5 mmbpd by 1990. In addition, the entitlements program, designed to equalize the price of imported and domestic crude oil to domestic refiners, has in fact encouraged oil consumption by indirectly subsidizing purchasers of foreign oil.

Under the current pricing structure, there appears little prospect for substantially increasing oil production or even stemming the natural decline of old oil. On the other side of the supply-demand system, conservation measures taken to date have not been sufficient to slow the rise in demand adequately. Thus, the nation's current prospects of reducing its vulnerability to interruptions in oil imports are not promising.

4. The impression of vulnerability created by the nation's seeming inability to control its increasing dependence on oil imports directly affects the nation's defense and foreign policy.

The United States' increasing reliance on foreign oil is perceived by its industrialized allies, the developing world, the Soviet bloc and the oil exporting countries themselves both as a sign of weakness and of a lack of internationally cooperative behavior. This perception works to the nation's disadvantage in terms of its national defense and its foreign policy.

National Defense. The Department of Defense has described the national defense impact of the nation's dependence on imported oil:

> The threatened impairment of the national security must be assessed not only in terms of the domestic capability to support national defense needs * * * but also in terms of international perceptions. Other countries make decisions on foreign relations and defense matters based upon their perception of our strengths. The impact of petroleum import * * * [dependency] on the United States could alter these perceptions significantly causing them to misjudge U.S. intentions. Such decisions would affect directly the security of the United States.

See Appendix B—Compilation of Agency Submissions.

The State Department concurred that dependence impairs the national defense:

> Our treaty obligations, particularly those that relate to mutual security, require the United States to be able to conduct an effective defense of its own interest and to make an effective contribution to the defense of its allies. Heavy dependence on imported oil can create doubts about our ability to sustain prolonged conflicts and assist our allies in an optimum way.

See Appendix B—Compilation of Agency Submissions.

Foreign policy. The dependence of the nation on imported oil also adversely affects its ability to achieve its foreign policy objectives and fulfill its international obligations. Other countries may doubt this country's resolve to fulfill political commitments or respond to challenges when the contingencies to which it may have to respond could affect the availability of oil. Respect for the United States' ability to take charge of its energy problem is critical to maintaining a position of world leadership. The State Department reported:

> It is our view that the current oil import situation impairs our ability to achieve our foreign policy objectives, both economic and political . . . Moreover, the way in which we deal with this situation is widely regarded by other countries as a test of United States leadership and determination to play a constructive role in international relations.

See Appendix B—Compilation of Agency Submissions.

5. Conclusion. The nation's current and projected dependence on foreign oil is appreciably greater than when past findings determined that dependence on foreign oil threatened the national security. The risk of interruption has not significantly lessened, and measures to reduce substantially the impact of interruption are not yet in place. The threat to the national security is thus greater now than at any time in the past.

III. THE MONETARY REPERCUSSIONS OF EXCESSIVE DEPENDENCE ON IMPORTED OIL THREATEN TO IMPAIR THE NATIONAL SECURITY [4].

1. The efforts of the U.S. to strengthen the dollar at home and abroad are being hampered by the excessive dependence on imported oil.

Efforts to strengthen the dollar. Although the United States is pursuing a broad array of policies to establish the fundamental economic conditions for a strong dollar, these efforts are being hampered by excessive dependence on imported oil. A program of monetary and fiscal restraint, supplemented by voluntary wage-price programs, is being implemented to bring inflation down and achieve a more sustainable economic expansion. This will contribute to a substantial reduction in the U.S. trade and current account deficits, which is a prerequisite for the maintenance of a strong and stable dollar. A new export promotion program is expected to help increase exports further. However, curbing this country's reliance on imported oil is essential to any major and lasting improvement. As pointed out in a previous section, the actual cost of annual oil imports increased nearly thirtyfold from 1959 to 1978, from $1.5 billion to about $42 billion. In 1978, oil imports represented roughly 25 percent of the total imports of the United States and amounted to about one and a quarter times the total merchandise trade deficit.

In 1979, oil import costs are expected to rise substantially. The December 1978 OPEC price hike alone will add about $4 billion to the cost of U.S. oil imports during 1979 and even more in 1980. The disruption in world supply patterns due to political developments in Iran has already led to some further price rises and created the risk of substantial increases.

The continuing excessive dependence on imported oil is making it more difficult to achieve U.S. economic objectives. The rising price of imported oil increases inflationary pressures by directly raising costs and by heightening inflationary expectations. Uncertainties about supplies and costs hamper confidence and inhibit investment required for non-inflationary growth. The growth of oil imports puts greater adjustment burdens on other elements of the U.S. balance of payments since it greatly increases the need for expansion of exports or decreases in other imports. With reduced dependence on oil imports, the U.S. economy could maintain appropriate levels of growth and grow faster with a lower inflation rate and a stronger dollar.

Exchange market perceptions. Because of its impact on the U.S. trade and current account deficits, excessive and growing U.S. dependence on oil imports increases the danger of reduced confidence in the dollar and makes the dollar more vulnerable to downward pressures in the foreign exchange market.

If downward pressures on the dollar were to become so severe as to damage world confidence in the dollar, the national security of the United States would be impaired. The dollar serves as the principal international currency for the world economy. The dominant share of world trade is denominated in dollars. About three-fourths of all medium- and long-term borrowing in international capital markets is in dollars. The IMF indicates that nearly 80 percent of official foreign currency reserves held by foreign central banks is in dollars. Thus, loss of confidence in the dollar, if widespread, would be likely to precipitate sudden and large-scale international capital flows in ways which would be disruptive to the banking system and world financial markets. The danger of resort to restrictive measures which would jeopardize the open trade and payments system would be greatly increased.

As the Federal Reserve Board has indicated:

> Concern about the U.S. deficit and the international value of the dollar could lead holders of dollars to undertake reductions in their dollar assets. Exchange market uncertainties would thereby be heightened and instability increased. It is, therefore, necessary to demonstrate our resolve to contain our oil imports and to help avoid the economic disruption that could follow from such portfolio shifts.

See Appendix B—Compilation of Agency Submissions.

Chairman Miller of the Federal Reserve Board has noted the relationship between the exchange value of the dollar and the health of the U.S. economy:

> At current quantity and price levels, imported petroleum is a major factor in the large U.S. trade and current account deficits. This has contributed to the substantial depreciation of the dollar in relation to other major currencies. Such depreciation adds to domestic inflation, fosters higher U.S. interest rates, creates instability in the international financial markets, and threatens further increases in international oil

prices. These in turn foster conditions that could lead to lower domestic economic activity and higher unemployment.

See Appendix B—Compilation of Agency Submissions.

Moreover, the world associates a strong currency with a strong country. The United States' relations with other nations and its ability to exercise leadership in political and military affairs are closely linked to confidence in the dollar.

According to the Department of State:

> Our high level of oil import dependence has contributed substantially to a current account deficit that has reduced international confidence in the dollar. This in turn has created difficulties in achieving the maximum degree of international cooperation to further our objective of promoting a stable, balanced recovery of the world economy . . .

See Appendix B—Compilation of Agency Submissions.

2. Conclusion.

A perception of continued inability of the nation to resolve its oil import problem could have significant consequences for the value of its currency and could thus seriously harm the nation's economic welfare. Such a perception, therefore, threatens to impair the national security.

IV. FINDINGS

This investigation has established that

- U.S. dependence on foreign oil has increased since 1975 and there has been no change in the risks of interruption, resulting in a greater threat to the national security than before;
- The monetary repercussions accompanying the growing dependency on imported oil constitute a threat to the national security, even apart from the possibility supply interruptions.

ROBERT H. MUNDHEIM,
General Counsel,
Department of Treasury.

MARCH 14, 1979.

FOOTNOTES

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[1] The 1959 finding was announced in Presidential Proclamation 3279, on March 10, 1959, 24 Fed. Reg. 1781 (1959). The 1975 Treasury finding appeared as U.S. Dep't of Treasury, Report on Investigation of Effect of Petroleum Products on the National Security pursuant to Section 232 of the Trade Expansion Act, as amended, 40 Fed. Reg. 4457 (1975).

[2] *See* Presidential Proclamation 3279, 24 Fed. Reg. 1781 (1959) as amended (quotas), modified by Presidential Proclamation 4210, 38 Fed. Reg. 9645 (1973) (license fees). The supplemental license fees imposed by President Ford following the 1975 finding were subsequently revoked.

[3] *FEA v. Algonquin SNG Inc.*, 426 U.S. 548 (1976).

[4] President's Special Committee to Investigate Crude Oil Imports, Report to the President, March 6, 1959.

[5] Presidents' Special Committee to Investigate Crude Oil Imports, Report to the President, July 29, 1957.

[6] U.S. Dep't of Treasury, Report, *supra* note 1.

[7] Department of Energy Organization Act, Pub. L. No. 95-91, Sec. 101, 91 Stat. 567 (to be codified at 42 U.S.C. sec. 7112 (1977)).

[8] Emergency Petroleum Allocation Act of 1973, sec. 2, 15 U.S.C. sec. 751 (1973).

[9] National Energy Conservation Policy Act of 1978, Pub. L. No. 95-619, sec. 102, 92 Stat. 3206. (to be codified at 42 U.S.C. 820 (1978)).

[10] 3 [1977] Energy Information Adm. Ann. Rep. to Cong. 23 [hereinafter cited as EIA Annual Report]. Imports for 1975 and 1978 are on balance of payments basis, derived from Bureau of Census statistics and covering imports from foreign countries into U.S. Customs territory plus the Virgin Islands and Guam; data obtained from Balance of Payments Division, Bureau of Economic Analysis, Department of Commerce.

[11] Data from Monthly Energy Review, Feb. 1979, at 30, adjusted to a balance of payments basis.

[12] For 1950, *see* EIA Annual Report, *supra* note at 5, 23. For 1978, *see* Monthly Energy Review, Feb. 1979, at 4, 30, adjusted to a balance of payments basis.

[13] Data by source are from Department of Energy and differ slightly from balance of payments data. For 1978 data, *see* Letter from Deputy Secretary of Energy John O'Leary to Secretary of Treasury W. Michael Blumenthal (March 9, 1979). For 1975 data, *see* Monthly Energy Review, May 1978, at 12, 14. For 1950 data, *see* Independent Petroleum Association of America, United States Petroleum Statistics 1978 (preliminary). The 1950 data are for countries which are not OPEC members Estimated indirect imports for all year have been included.

[14] Monthly Energy Review, Feb. 1979, at 30, adjusted to a balance of payments basis.

[15] Production data based on first 9 months of 1977 and 1978. *See* U.S. Dep't of Energy, Energy Data Reports, Petroleum Statement, Monthly, Sept. 1978, at 7.

[16] American Petroleum Institute, Estimated U.S. Supply/Demand Situation, June 1978, at 2.

[17] U.S. Dep't of the Interior, Energy Perspectives II, June 1976, at 191.

[18] *Id.* at 194.

[19] Canadian National Energy Board, Report, "In the Matter of Exportation of Oil," October 1974, 4-7.

[20] Data are Department of the Treasury estimates, based on information supplied by Department of Energy and the Central Intelligence Agency. Includes both direct and indirect imports.

[21] An indication of productive capacity can generally be estimated from the proven reserves. It should be noted that the Middle East contains approximately 365 billion barrels of proven crude oil reserves. This is almost 60% of the entire world's reserves. Within the Middle East, Saudi Arabia, Kuwait and Iran have 281 billion barrels. These three countries dwarf the rest of the world in their current reserves. By contrast, the reserves of Indonesia are only 14 billion barrels; Nigeria, 19 billion barrels; and Venezuela, 14 billion barrels. *See* "Estimated Proved and Provable Petroleum reserves," in Central Intelligence Agency, International Energy statistical Review, Feb. 7, 1979 at 4.

[22] Mexican exports to the U.S. constituted 0.3 percent of U.S. oil imports in 1973, about 2 percent in 1977, and are expected to continue to raise in the future. *See* Monthly Energy Review, May 1978, at 12, 14.

[23] Unit value for 1950 is for crude oil only; those for 1975 and 1978 cover crude and products. Data are based on Bureau of Census import statistics, and were obtained from Balance of Payments Division, Bureau of Economic Analysis, Department of Commerce.

[24] Balance of Payments basis. Represents Bureau of Census statistics covering imports from foreign countries into U.S. Customs territory plus the Virgin Islands and Guam.

[25] Iran, Iraq, Kuwait, Qatar, Saudi Arabia, and United Arab Emirates.

[26] Energy Policy and Conservation Act, secs. 151-166, 42 U.S.C. secs. 6231-46 (1976).

[27] The Department of Energy's Stategic Petroleum Reserve Plan, amendment no. 2 to increase the size to one billion barrels became effective June 13, 1978.

[28] Agreement on an International Energy Program, Brussels, September 27, 1974, ch. IV.

[29] *See, e.g.*, Section 232 Investigation Comment of American Gas Association dated February 21, 1979 (on file at U.S. Dep't of Treasury).

[30] Monthly Energy Review, May 1978, at 38.

[31] *See* EIA Annualy Report, *supra* note 10, at 6.

[32] Monthly Energy Review, Feb. 1979 at 6.

[33] The Administration supported a nuclear siting and licensing bill in Congress which would reduce lead time to 6–7 years. H.R. 11704, 124 Cong. Rec. H. 2,298 (daily ed. March 21, 1978). The Administration anticipates introducing a similar bill in the near future.

[34] Executive Office of the President, National Energy Plan, April 29, 1977, at 95 [hereinafter cited as the NEP].

[35] According to the NEP, nuclear power will equal 24.5 percent of total electricity generated in 1985. NEP, *supra* note 32, at 95. The EIA forecasts 18 percent nuclear power for slightly less electricity generated in 1985. 2 EIA Annual Report, *supra* note 10, at 215.

[36] NEP, *supra* note 35, at 96.

[37] For 1970 data, *see* 3 EIA Annual Report, *supra* note 10, at 23; includes lease condensate. For 1978 data, *see* Monthly Energy Review, Feb. 1979, at 28.

[38] Monthly Energy Review, Feb. 1979, at 70.

[39] 2 EIA Annual Report, *supra* note 10, at 139 (table 6.9).

[40] American Petroleum Institute, Reserves of Crude Oil, Natural Gas Liquids and Natural Gas in the United States and Canada as of Dec. 31, 1977 24 (1978).

[41] 2 EIA Annual Report, *supra* note 10, at 149 (figure 6.3).

[42] 2 EIA Annual Report, *supra* note 10, at 149 (table 6.14).

[43] National Petroleum Council, Enhanced Oil Recovery, Dec. 1976, at 6 (figure 2).

[44] Entitlements essentially average the cost of crude oil to refiners. Higher priced imported oil is averaged in with lower priced, price-controlled domestic oil. The cost to refiners of a composite barrel is approximately $2/bbl. less than the cost of imported oil.

*The data in this section were developed by the Office of International Monetary Affairs, Department of Treasury.

APPENDIX A—ORDER INITIATING INVESTIGATION

Memorandum for Robert Mundheim, General Counsel

SUBJECT: REQUEST FOR SECTION 232 INVESTIGATION

MARCH 15, 1978.

Pursuant to my authority under Section 232 of the Trade Expansion Act, 19 U.S.C. section 1862, I request that you immediately initiate an investigation to determine whether imports of petroleum and petroleum products threaten to impair the national security.

Since the investigation is being initiated only for contingency purposes at this time, it should be conducted on a confidential basis by selected persons within the Treasury Department. Other Departments and agencies should be consulted as appropriate in the future.

In my judgment, national security interests require that an opportunity for public comment should not be afforded in this case. Accordingly, I exercise my discretion under section 232, reflected in Treasury Regulations 31 CFR sections 9.7 and 9.8, to proceed without public notice, hearings, or opportunity for comment. Therefore, I request that you dispense with these procedures and proceed immediately with the investigation.

W. MICHAEL BLUMENTHAL.

APPENDIX B—COMPILATION OF AGENCY SUBMISSIONS

INDEX

1. February 12, 1979 submission of Board of Governors of the Federal Reserve System.
2. February 22, 1979 submission of the Central Intelligence Agency.
3. February 26, 1979 submission of the Department of Defense.
4. March 8, 1979 submission of the Department of Energy (including Appendices A through G).
5. February 9, 1979 and April 3, 1978 submission of the Department of State.
6. October 26, 1978 submission of the Department of Transportation.
7. February 12, 1979 revision of September 11, 1978 submission of the Council of Economic Advisers.
8. February 12, 1979 submission of the Department of the Interior.
9. April 24, 1978 submission of the Department of Labor.
10. September 14, 1978 submission of the Department of Commerce.

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BOARD OF GOVERNORS, OF THE FEDERAL RESERVE SYSTEM

Washington, D.C.
February 12, 1979.

The Honorable W. MICHAEL BLUMENTHAL, *Secretary of the Treasury, Department of the Treasury, Washington, D.C.*

DEAR SECRETARY BLUMENTHAL: In response to your request, the following comments are being submitted on behalf of the Federal Reserve Board to assist in an investigation by the Secretary of the Treasury under Section 232(b) of the Trade Expansion Act of 1962 with respect to U.S. imports of petroleum and petroleum products.

In particular, you have asked for an analysis of the impact of petroleum imports on (1) the domestic economy, including growth, employment and inflation, (2) the U.S. balance of payments and the value of the dollar in foreign exchange markets, and (3) the stability of the domestic and international financial system generally.

General Discussion

(1) Prior experience indicates the adverse effects on the U.S. economy of excessive reliance on foreign sources for the oil upon which our economy critically depends. In a matter of months, the 1973-74 oil embargo disrupted the world economy with serious direct and indirect repercussions on U.S. economic activity, production and employment. The current disruption of Iranian production and exports of oil has once again illustrated our vulnerability. The continuing risk of supply interruption is a serious threat to the U.S. economy and thus to U.S. national security. The U.S. program for stockpiling oil, while providing some short-term protection, would not eliminate this risk.

(2) International petroleum prices, which are set in terms of U.S. dollars, are now at a level more than six times that prevailing in mid-1973. Further price increases have already occurred in 1979 and additional substantial price increases are scheduled for later in the year. These increases could well be larger if oil supplies from Iran remain sharply curtailed.

(3) Increases in the price of imported petroleum—an essential commodity in the U.S. economy—have contributed directly and indirectly to inflationary pressures in the United States. High or accelerating rates of inflation can lead to a slackening in economic activity through adverse effects on real personal income, expectations and markets. These effects can pose a threat to economic stability.

(4) Even at current prices, oil imports have been a substantial factor contributing to the emergence of a very large U.S. trade deficit. The U.S. oil import bill is now running at an annual rate of over $40 billion, up from $8½ billion in 1973; oil imports now constitute one-quarter of the dollar value of U.S. imports. The trade balance, meanwhile, has moved from an approximate balance in 1973 to a deficit of almost $35 billion in 1978. Although the trade deficit was reduced in the last three quarters of 1978, and a significant further improvement is in prospect for 1979, the trade deficit will remain large.

(5) Large U.S. trade deficits have contributed to an environment in which the dollar depreciated in 1978 by over 10 per cent against major foreign currencies in often disorderly trading conditions. This decline in the foreign exchange value of the dollar has increased uncertainty in world financial markets and inhibited the development of conditions conducive to world economic growth. If severly unsettled exchange market conditions were to reemerge, the risk is increased of potential capital outflows that would exert additional downward pressure on the dollar, with it associated inflationary implications. The depreciation of the dollar from mid-1977 through most of 1978 added about 1 per cent to U.S. price inflation last year, and the lagged effects of the depreciation will add further to our inflation problem in 1979 and 1980. Moreover, the depreciation of the dollar was apparently a consideration influencing OPEC to schedule substantial price increases for 1979. The November 1 actions have helped to correct the excessive decline in the dollar's international value and to restore a measure of stability to exchange markets. Fundamental corrective steps must continue to be pursued to deal effectively with those conditions that have depressed the dollar. Reduction in U.S. dependence on imported oil represents one such fundamental corrective step.

(6) The U.S. dollar plays a major world role as a reserve asset and as a medium for investments and other transactions. Concern about the U.S. deficit and the international value of the dollar could lead holders of dollars to undertake reductions in their dollar assets. Exchange market uncertainties would thereby by heightened and instability increased. It is, therefore, necessary to demonstrate our resolve to contain our oil imports and to help avoid the economic disruption that could follow from such portfolio shifts.

(7) Large U.S. current-account deficits not only contribute to downward pressure on the dollar but also create economic uncertainties and expectations of future declines in the value of

the dollar. The present situation has fostered protectionist pressures both here and aboard. The rest of the world is looking to the United States to limit its demand for petroleum. If we fail to do so, U.S. credibility and leadership will be weakened with adverse implications for our foreign policy.

Conclusion

An adequate and secure supply of petroleum and petroleum products is critical to the functioning of the U.S. economy now and in the foreseeable future. The United States is currently heavily dependent upon imports in order to fulfill that critical need, and such dependence threatens to impair our national security because:

(a) Even at current quantity and price levels, imported petroleum is a major factor in the large U.S. trade and current account deficits. This has contributed to the substantial depreciation of the dollar in relation to other major currencies. Such depreciation adds to domestic inflation, fosters higher U.S. interest rates, creates instability in the international financial markets, and threatens further increases in international oil prices. These in turn, foster conditions that could lead to lower domestic economic activity and higher unemployment.

(b) Requirements for higher quantities of oil or imposition of higher oil prices will aggravate these adverse conditions.

(c) An embargo of the type experienced in 1973-74, or a similar interruption in the supply of imported oil, would adversely affect the U.S. economy.

(d) The November 1 actions to correct the excessive depreciation of the dollar have had beneficial effects, but continuing corrective steps are necessary to ensure the dollar's stability.

All this indicates the need to reduce the U.S. dependence on imported petroleum and petroleum products. Please let me know if you desire further data or analysis.

Sincerely,

G. WILLIAM MILLER,
Chairman.

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CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C.,
February 23, 1979.

The Honorable ROBERT H. MUNDHEIM,
General Counsel,
Department of the Treasury,
Washington, D.C.

DEAR MR. MUNDHEIM: In response to your letter of 6 February 1979, relating to the investigation of US imports of petroleum and petroleum products under Section 232 of the Trade Expansion Act, we are forwarding an update of the analysis we provided you on 16 May 1978 addressing the impact of oil imports on national security.

We stand by our previous conclusion that the economy of the United States is critically dependent on oil imports. Imports of crude oil and petroleum products accounted for 42 percent of US oil consumption during the first half of 1978. Total imports for the year are estimated at 8.2 million b/d, 44 percent of consumption. This dependence is expected to increase further in the years ahead as Alaskan oil production levels off and output in the lower 48 states continues its downward trend.

As you requested we have also included a brief unclassified assessment of the current Iranian situation for your use. Although Iran provided only 5 percent of US oil consumption during the first half of last year, the recent disruption in Iranian oil supplies clearly points up the vulnerability of the US economy to supply disruption. We have also enclosed an update of the table provided earlier indicating the major countries exporting oil to the United States. The data in the table includes both direct and indirect US oil imports.

Yours,

FRANK C. CARLUCCI
Director.

Enclosure:
As stated.

Section 232 Investigation on Petroleum Imports

In 1978 the United States imported 8.2 million b/d—44 percent of total oil consumption. During first-half 1978, the latest six-month period for which country data are available, more than 40 percent of US direct and indirect oil imports originated in Arab countries. In 1970 the US was dependent on oil imports for only 22 percent of oil consumption and only 11 percent of the oil imports originated in Arab countries.

As demonstrated by recent events in Iran, oil supply interruptions can emerge from political upheavals among the governments of major oil producers in the Persian Gulf. The probability that another oil exporter may suddenly undergo an unsettling change in the next several years is hard to assess. But, should a political discontinuity occur, one possible consequence would be a reduction, for an indeterminate period of time, in oil output. The underlying motivations of the new leadership in such a contingency could range from the desire to conserve resources, to the desire to pressure importers to act on some issue of interest to the oil exporter.

Accidents and Terrorist or Guerrilla Action

There is a high probability that acts of nature, human error, or deliberately targeted terrorist attack will interrupt the flow of oil in one or more of the oil exporting nations during the next several years.

Interruptions of oil supply owing to guerrilla operations, acts of terrorism, or acts of nature are not likely, by themselves, to be of a magnitude and duration which would result in severe economic disruption of Free World economies, though they could exert strong upward pressure on prices in a tight world oil market. Extensive terrorist action against key oil storage and transportation facilities in the Persian Gulf could, in particular, significantly affect the market by substantially reducing oil supplies for the time required to put those facilities back into operation, which could be several months.

Regional War

Recent history provides many examples of practical cooperation among the states of the Persian Gulf, but there are a number of regional territorial and political disputes involving Middle Eastern oil exporting nations that could escalate to armed conflict, including insurrections, guerrilla wars, and more conventional international wars. The concentration and physical vulnerability of production and transportation facilities in the area are so high that some damage to facilities is likely to occur, resulting in a decline in oil production in the area of hostilities. In the principal Middle Eastern oil producing nations a reduction of production by one fourth would have a significant impact on the dependent Free World within three months or so.

Communist Countries

At present, the USSR and China do not have the US vulnerability to oil supply interruption. Both countries are net exporters of petroleum. In 1977, the USSR exported more than 3 million b/d, almost half to non-Communist countries. China exported about 200,000 b/d in 1977.

The Iranian Situation

The igterruption of Iranian oil production and exports has demonstrated the vulnerability of oil consumers to disruptions in the oil exporting nations. Iran has produced less than 1 million b/d since late December 1978, instead of the 5-6 million b/d that would have been expected under normal circumstances. The shortfall has been only partially offset by other producers. Saudi Arabia is averaging about 1 million b/d more than would have been expected, and other OPEC producers are producing about 1 million b/d above the level anticipated.

Spot market prices have climbed sharply during the prolonged cutoff in Iranian oil supply, prompting several OPEC members to increase their selling prices over and above the increase in 1979 oil prices already scheduled. Many OPEC countries are selling increasing quantities of crude at spot prices; Saudi Arabia is selling part of its production at fourth quarter 1979 prices.

Unless substantial Iranian oil production and exports are restored or Free World oil consumption is restrained, severe market pressures could arise as early as second quarter 1979, and the situation could become critical by the winter of 1979/80. Companies will probably hold on to their stocks—many; including those with relatively little dependence on Iran, have already cut back their deliveries substantially—forcing an adjustment in consumption. This process would include higher prices as well as informal rationing by the companies. Government conservation measures would probably also be required.

We expect a tight oil situation to continue for the next several years. The new Iranian leadership, apparently intending to pursue a more moderate development strategy than the Shah's regime, probably will produce less oil than in the past. It will also support OPEC oil price hikes, adding to the bargaining strength of the OPEC hawks. Rising prices, of course, will restrain oil consumption, but at the cost of reduced economic growth.

Direct and Indirect US Oil Imports by Source

(Thousand b/d)

	1975	% Total	1977	% Total	Jan-Jun 1978[1]	% Total
Algeria	290	4.8	565	6.5	684	8.7
Iraq	10	0.2	105	1.2	NA	NA
Kuwait	30	0.5	60	0.7	NA	NA
Libya	330	5.5	845	9.7	707	8.9
Qatar	90	1.5	100	1.1	NA	NA
Saudi Arabia	850	14.1	1,545	17.7	1,220	15.4
United Arab Emirates	170	2.8	430	4.9	478	6.0
Arab Members of OPEC	1,770	29.4	3,650	41.8	3,257	41.2
Ecuador	70	1.2	65	0.7	NA	NA
Gabon	--	--	55	0.6	NA	NA
Indonesia	450	7.5	615	7.0	575	7.3
Iran	500	8.3	815	9.3	920	11.6
Nigeria	820	13.6	1,255	14.4	903	11.4
Venezuela	1,040	17.2	895	10.2	872	11.0
OPEC	3,810	63.2	7,350	84.1	6,639	83.9
Canada	800	13.3	460	5.3	463	5.8
Mexico	--	--	180	2.1	244	3.1
Others	580	9.6	750	8.6	NA	NA
TOTAL	6,030	100.0	8,740	100.0	7,912[2]	100.0

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[1] Estimated. Imports for strategic petroleum reserve included in total but not in data for individual countries.

[2] The decline in imports is due primarily to increased availability of Alaskan oil during first half 1978. Imports for the entire year are estimated at 8.2 million b/d, but data are unavailable by source.

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Assistant Secretary of Defense,
Washington, D.C. 20301,
February 26, 1979.

Hon. Robert H. Mundheim,
General Counsel, Department of Treasury, Washington, D.C.

Dear Mr. Mundheim: This is in response to your February 6, 1979, letter which requested Department of Defense comments on the impact of oil imports on the national security of the United States. You requested our comments in connection with an investigation you are conducting pursuant to Section 232(b) of the Trade Expansion Act of 1962. This letter confirms the conclusions stated in our classified report to you on this subject on September 12, 1978.

The Department of Defense concludes that imports of petroleum in current quantities make us vulnerable to energy supply disruptions. Such disruptions could threaten the national security of the United States. We base this conclusion on analysis of two aspects of the national security: the potential domestic effects of disruption of normal levels of petroleum imports, and the way in which foreign governments, when making decisions on foreign affairs and defense matters, perceive the United States' dependence on oil imports. These analyses are summarized below.

I. *Potential Domestic Effect on Defense Capability Due to Disruption of Normal Levels of Petroleum Imports*

We evaluated two separate factors: first, the risk that there will be a disruption; and second, the domestic effects that will ensue if there is a disruption.

A. *Risk of disruption*

The Department of Defense has analyzed the risk of disruption. We are following closely the impact of the various situations in the Middle East on the nation's petroleum supply. The concentration of oil production facilities in the area presents the major physical risk. This creates a risk of interdiction, or even the risk of natural or accidental disturbances. The extensive damage in the Abqayq fires in May and June 1977, caused by accident, highlights the fragility of these facilities. Destruction of key facilities could cause major interruptions of oil deliveries to the U.S. and to our NATO and Japanese allies which would adversely affect U.S. and Western World political, economic and military security.

Many ideological disputes in the Middle East have the potential to escalate to armed conflict in a single country, on a regional scale, within the Middle East, or could draw in powers outside the Middle East. Also, various terrorist groups operate in the Middle East with the capability to mount an attack on oil production or transportation facilities. We estimate that resumption of production and distribution of oil following such an attack could require six months to a year. The time required could be even longer depending on the availability of specialized personnel and repair equipment and the extent of the destruction.

B. *Defense-related results of disruption*

A disruption which threatens the supply of fuel to the military has profound implications. Secretary of Defense Harold Brown has summarized the problem succinctly.

"The present deficiency of assured energy resources is the single surest threat that the future poses to our security and to that of our allies. . . Such a cut-off could grow from conflict between others—as in the Middle East in a crisis which did not involve our own forces; or it could be directed primarily at the United States—as in a war in which our adversary interdicted or destroyed our sources of foreign supply. Under either condition, until we lessen the import habit we are terribly vulnerable."

Disruption of petroleum imports has a direct impact on the economic and political security of the United States. The impact could include the lack of adequate fuel to operate industries, increased inflation and, ultimately, rising unemployment. Impacts such as these affect the military security, because they weaken one of this country's greatest assets, its industrial vitality. The Department of Defense relies on the industrial base to provide the weapons and equipment it needs to project its military power when and where needed to protect the national interests of the United States. As a result, adverse economic conditions in the United States weaken the industrial base. Reduction of oil supplies could cause some contractors, upon whom the Department of Defense relies, to curtail operations altogether. Other contractors could be forced to limit their operations (e.g., close some plants) in a way that would make them less flexible and responsive to Department of Defense requirements.

Preoccupation with domestic economic problems could result from a petroleum import disruption. This preoccupation could cause us as a nation to emphasize a solution to the domestic economic dislocation at hand at the expense of longer term international interests.

II. *Potential Effect on Perceptions of Other Countries*

The threatened impairment of the national security must be assessed not only in terms of the domestic capability to support national defense needs as we discussed above, but also in terms of international perceptions. Other countries make decisions on foreign relations and defense matters based upon their perception of our strengths. The impact of petroleum import restrictions on the United States could alter these perceptions significantly causing them to misjudge U.S. intentions. Such decisions would affect directly the security of the United States.

A. *Allied and uncommitted nations*

The substantial dependence of the United States on imported oil may strain security arrangements with allies and may make productive relations with uncommitted nations about defense matters more difficult. Included here is the perception on the part of a foreign government that the United States may be unable to meet its international defense commitments.

B. *Hostile nations*

The national security also is affected by how hostile nations perceive our resolve and ability to respond effectively to challenges. Decisions of hostile nations which could entail intervention in the affairs of or aggressive acts toward other nations will depend as often on our economic health and the will of our people as on our military capabilities. Other nations' perceptions of these factors, as well as the objective facts, are critical to the national security.

The concerns of the Department of Defense, as expressed above, are reinforced by recent developments. The reality of the current problem in Iran underscores the potential dangers that our reliance on petroleum imports has.

If I can be of further help, please let me know.

Sincerely,

Robert B. Pirie, Jr.,
Principal Deputy Assistant Secretary of Defense (MRA&L).

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March 9, 1979.

Hon. W. Michael Blumenthal, *Secretary of the Treasury, Fifteenth Street & Pennsylvania Avenue NW., Washington, D.C.*

Dear Mr. Secretary: This letter is in response to your request of April 4, 1978, for information which would assist you in determining, pursuant to Section 232(b) of the Trade Expansion Act of 1962, as amended, whether petroleum and petroleum products are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. The specific information which you requested is contained in the appendices accompanying this letter.

In addition, I have included an appendix which compares the data chiefly relied upon during the 1975 investigation of petroleum imports[1] with current data. That comparison reveals that the United States has become even more dependent on foreign sources of oil which are subject to the threat of interruption than in 1975 when the conclusion was reached that petroleum and petroleum products were being imported "in such quantities and under such circumstances as to threaten to impair the national security."[2]

In the intervening period the United States has not fully achieved a capability to avoid the serious consequences to the national security which would result from a significant interruption in imports of petroleum. The Department of Energy adopted an Interim Response Plan for Petroleum Contingencies in June 1978 which addresses the use and interrelationship of the three primary classes of options the DOE currently has for mitigating the effects of a petroleum import interruption. Those options are:

(1) *Drawdown of the Strategic Petroleum Reserve*—In June 1978 the Congress approved DOE-proposed changes[3] to the SPR Plan which authorized expansion of the Reserve to one billion barrels from the previous target of 500 million barrels. DOE expects that the initial target of 248 million barrels in SPR storage will be met by the end of 1980. In view of the Iranian situation, however, it is uncertain whether the current objective of acquiring 10 million barrels a month for the SPR can be maintained. As of February 11, 1979 approximately 77 million barrels had been delivered to the SPR (See Appendix C). Other than the limited quantity which has been placed in SPR storage, emergency supply availability is limited to current inventories, domestic and international stocks, and exports from countries which decline to participate in a possible future embargo. Those stocks are currently being drawn down due to the cessation of Iranian exports which further limits our flexibility to withstand any additional interruption in our supply.

(2) *Regulatory Demand Reduction and Supply Management*—Current regulatory measures for emergencies have been revised and are in the final development process. These include crude and product allocation and pricing regulations, and rationing and contingency plans (See Appendix B).

(3) *International Energy Program*—In the event of an international supply disruption, the International Energy Program (IEP) is designed to coordinate a collective response of most of the major oil importing countries, including the United States. This could ease to some degree the effects of an embargo directed against a single member. In the event of a general embargo the IEP would tend to equalize the disruption in its members' imported supplies and minimize competition for the available supplies. Proposed regulations to allow the Secretary of Energy to require U.S. oil companies to allocate petroleum internationally in order to carry out U.S. obligations under Chapters III and IV of the IEP Agreement were published in February of 1978 and a public hearing was held in June of 1978. Final regulations are in the process of being reviewed internally and will be published shortly.

Recent events in the Middle East have underscored our vulnerability and mandate that the President retain authority to adjust imports in a manner consistent with current conditions. Therefore, the conclusion that petroleum and petroleum products were being imported "in such quantities and under such circumstances as to threaten to impair the national security", reached by the 1975 national security investigation conducted by the Department of the Treasury, clearly remains an accurate and valid one.

Sincerely,

John F. O'Leary,
Deputy Secretary.

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[1] Report of Investigation of Effect of Petroleum Imports and Petroleum Products on the National Security Pursuant to Section 232 of the Trade Expansion Act, as amended, Department of the Treasury, January 13, 1975 (Report).

[2] *Id.* at 1.

[3] Strategic Petroleum Reserve Plan—Expansion of the Strategic Petroleum Reserve—Amendment No. 2, Energy Action DOE No. 1, March 1978.

Appendix I.A

Statistics Relating to National Energy Supply and Demand

Attachment

Demand and Consumption

1978	Total Energy Consumption		77.673	Quads
1978	Total Domestic Demand		18.787	m b/d
	Refined Products			Quads

Supply

1978	Domestic Crude Oil Production		8.671	m b/d
1978	North Slope Crude Oil Production		1.15-1.2	m b/d Estimate
1978	Imports - Crude oil		6.2??	m b/d
	Refined Products		1.980	m b/d
1978	Imports (Direct and Indirect)	Indirect	Direct	
	from 1) OPEC Nations	1,235.1	5,575.5	m b/d
	2) OAPEC Nations	600.0	2,184.8	m b/d
		Jan-Nov	Jan-Nov	
1978	Average Estimated Landed Price Saudi Arabian crude		$ 14.88 Jan-Nov	/bbl
1978	Electricity produced by Nuclear Power		3.012	Quads
1978	Petroleum consumed to Produce Electricity		577,677 ~~Jan-Nov~~	Jan-Oct thousands of barrels
	U.S. Crude Oil Reserves - end 1977		29.486	billion bbls
	New Reserves Added During 1977 NGL		300	million bbls
	Crude Oil		1,400	million bbls

Strategic Petroleum Reserves (please verify accuracy)

Inventory in place end 1978	correct	68.5	million bbls
Estimated goal for fill rate for 1979		333,000	b/d
Estimate date for goals of			
500 million bbls in place	correct	1983	
750 million bbls in place	correct	1986	
1 billion bbls in place			

Although DOE has authority to establish a 1 billion bbls reserve by 1985, specific implementation plans have not been formulated nor have funding decisions been made as of this date.

Executive Summary (Continued)

Domestic Energy Production by Primary Energy Type

		Coal¹	Crude Oil²	NGPL³	Natural Gas (dry)	Hydro-electric Power⁴	Nuclear Electric Power	Geothermal Power and Other⁵	Total
		Quadrillion (10¹⁵) Btu							
1972	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1973	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1974	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1975	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1976	January	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	February	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	March	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	April	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	May	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	June	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	July	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	August	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	September	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	October	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	November	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	December	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1977	January	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	February	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	March	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	April	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	May	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	June	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	July	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	August	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	September	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	October	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	November	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	December	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1978	January	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	February	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	March	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	April	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	May	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	June	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	July	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	August	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	September	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	October	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	November	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	December	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

[1] Includes bituminous coal, lignite and anthracite coal
[2] Includes lease condensate
[3] Natural gas plant liquids
[4] Includes industrial and utility production of hydropower
[5] [illegible]

[illegible]

Executive Summary (Continued)

Domestic Energy Summary

		Domestic Energy Production	Domestic Energy Consumption	Energy Imports	Energy Exports
		Quadrillion (10^15) Btu			
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

[illegible]

Crude Oil

		Crude Input to Refineries	Domestic Production	Crude Oil Imports	Strategic Petroleum Reserve (SPR) Imports	Exports	Crude Oil Stocks	Strategic Petroleum Reserve (SPR) Stocks
		Thousands of barrels per day					Thousands of barrels	
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

[illegible]

Total Refined Petroleum Products

		Domestic Demand	Imports¹	Exports
		Thousands of barrels per day		
1972	AVERAGE	16,367	2,529	222
1973	AVERAGE	17,308	3,012	[illegible]
1974	AVERAGE	16,653	2,635	210
1975	AVERAGE	16,322	1,951	204
1976	AVERAGE	17,461	2,026	215
1977	January	20,461	2,556	178
	February	20,427	2,279	175
	March	18,056	2,610	175
	April	17,570	1,886	207
	May	16,980	1,753	199
	June	18,048	1,872	215
	July	17,549	2,021	201
	August	18,009	2,175	183
	September	17,733	2,136	203
	October	17,831	1,862	170
	November	18,442	1,814	190
	December	20,046	2,183	206
	AVERAGE	18,418	2,176	193
1978	January	19,831	2,085	198
	February	20,874	2,337	200
	March	19,627	2,323	209
	April	17,714	2,100	245
	May	18,133	1,762	189
	June	18,271	1,824	204
	July	17,631	1,948	192
	August	R18,611	R1,850	229
	September	17,867	2,024	NA
	October	18,297	1,719	NA
	November	R18,867	R2,009	NA
	December	19,039	2,110	NA
	AVERAGE	18,707	1,999	203

Total Petroleum Imports
(Crude Oil and Refined Products)

	Total Imports (Excluding SPR)	SPR Imports	Total Imports (Including SPR)
	Thousands of barrels per day		
1972 AVERAGE	4,741		
1973 AVERAGE	6,256		
1974 AVERAGE	6,112		
1975 AVERAGE	6,056		
1976 AVERAGE	7,313		
1977 January	8,882		
February	9,930		
March	9,243		
April	8,671		
May	8,174		
June	8,805		
July	9,042		
August	8,591		
September	8,565		
October	8,132	80	8,212
November	8,044	73	8,117
December	8,232	79	8,311
AVERAGE	8,724	21	8,744
1978 January	8,040	116	8,156
February	7,887	109	7,996
March	8,304	122	8,426
April	7,431	108	7,539
May	7,216	133	7,349
June	7,851	146	7,997
July	7,984	156	8,138
August	R7,966	186	R8,152
September	8,583	225	8,808
October	7,990	195	8,163
November	R8,351	180	8,539
December	8,823	NA	NA
AVERAGE	8,061	108	8,134

¹See Definitions
R = Revised data
NA = Not available
Sources: 1972 through 1976, Bureau of Mines (BOM) *Mineral Industry Surveys*, "Petroleum Statement, Annual." January 1977 through April 1977, Bureau of Mines *Mineral Industry Surveys*, "Petroleum Statement Monthly." May 1977 through August 1978, Energy Information Administration (EIA), *Energy Data Reports*, "Petroleum Statement, Monthly." September 1978 through November 1978, EIA "Monthly Petroleum Statistics Report." December 1978 data are EIA estimates based on data from the American Petroleum Institute (API) "Weekly Statistical Bulletin."

Domestic Petroleum Imports from OPEC Countries

	Algeria	Indonesia	Iran	Libya	Nigeria	Saudi Arabia	United Arab Emirates	Venezuela	Other OPEC¹	Total OPEC	Arab Members of OPEC
	Thousands of barrels per day										
1973	184.2	212.7	222.7	164.3	458.5	487.3	70.6	1,134.7	186.6	2,991.9	914.4
1974	190.2	300.1	469.0	4.4	647.6	460.0	78.5	979.0	98.2	[illegible]	746.8
1975	281.5	390.6	280.4	232.0	761.8	715.0	116.7	697.6	116.1	[illegible]	1,381.3
1976	428.3	537.4	298.0	453.3	1,025.2	1,230.0	256.2	688.3	134.8	[illegible]	2,421.8
1977											
January	483.0	819.2	396.8	627.0	1,205.0	1,320.0	319.5	841.0	324.2	6,236.0	3,000.0
February	695.1	570.3	412.4	636.0	1,265.1	1,441.8	316.7	820.6	241.0	6,472.0	3,141.1
March	658.8	587.0	735.0	701.2	1,350.0	1,371.6	305.5	664.3	186.3	6,352.7	3,037.1
April	660.7	823.0	617.2	782.8	1,242.4	1,437.4	323.5	663.3	250.5	6,401.8	3,303.2
May	392.8	512.7	838.3	784.1	1,072.3	1,724.1	237.1	534.4	425.9	6,232.7	3,451.3
June	436.6	871.6	553.0	827.1	1,190.8	1,432.7	438.6	660.7	343.5	6,562.6	3,374.1
July	573.0	816.0	957.3	763.4	1,194.7	1,369.8	286.1	657.8	350.8	6,567.8	3,232.1
August	[illegible]	852.8	505.1	640.0	950.5	1,445.4	308.5	744.4	276.9	6,084.9	3,180.8
September	580.8	381.0	408.9	679.2	1,064.8	1,487.4	348.4	744.8	201.0	5,936.3	3,215.1
October	626.2	461.0	413.0	690.5	1,104.2	1,303.3	246.9	666.7	272.0	5,703.9	2,998.1
November	590.8	514.6	422.7	840.1	943.0	1,119.2	420.1	615.1	205.0	5,650.4	3,162.5
December	563.0	492.7	940.0	604.4	887.2	1,064.8	350.5	724.2	209.1	5,854.9	2,835.4
TOTAL	582.0	533.0	590.2	714.7	1,136.1	1,377.0	333.4	627.0	290.3	6,190.5	3,168.7
1978											
January	687.3	462.7	551.5	559.9	822.9	1,198.2	340.7	620.4	227.8	5,472.5	2,925.1
February	535.9	393.5	536.2	575.8	758.4	902.4	405.8	750.5	242.3	5,350.8	[illegible]
March	708.5	579.4	567.3	589.9	944.8	1,125.6	296.2	853.6	240.6	5,076.9	[illegible]
April	557.8	[illegible]	488.6	601.8	584.3	886.5	435.0	641.9	220.2	4,980.7	2,712.1
May	567.1	500.5	730.4	498.7	750.2	786.3	404.5	527.6	84.5	4,957.8	2,356.8
June	796.0	[illegible]	508.5	630.3	811.7	1,111.3	342.7	481.1	235.4	5,557.7	3,004.8
July	662.5	617.8	832.5	622.2	845.0	1,020.8	289.4	531.9	286.9	5,517.0	2,786.6
August	R484.2	R377.5	R674.2	R781.6	R531.5	R1,102.5	404.7	R505.8	R217.4	R5,506.9	R2,873.2
September	509.9	566.3	874.2	766.4	1,023.6	1,231.1	374.8	651.2	236.8	6,060.3	3,163.5
October	605.7	533.7	488.2	883.4	827.6	1,162.0	387.2	606.6	112.8	5,613.2	2,986.4
November	500.4	486.2	456.5	720.0	1,143.3	1,360.7	418.1	634.3	232.0	6,013.4	3,218.3
TOTAL (Year to date)	640.2	530.0	600.0	640.5	861.0	1,086.3	380.2	611.8	212.4	5,667.5	2,894.8

¹Includes Ecuador, Gabon, Iraq, Kuwait, and Qatar
R = Revised data
Sources: Direct imports—Bureau of Mines *Mineral Industry Surveys*, "Petroleum Statement, Monthly" and "PAD District Supply Demand, Monthly" through April 1977; EIA *Energy Data Reports*, "PAD Districts Supply Demand, Monthly" for May 1977 through August 1978; EIA "Monthly Petroleum Statistics Report" for September 1978 through November 1978.

Domestic Petroleum Imports from Non-OPEC Sources

	Bahamas	Canada	Mexico	Netherlands Antilles	Puerto Rico	Trinidad and Tobago	Virgin Islands	Other	Total
	Thousands of barrels per day								
1973	176.8	1,312.0	16.2	575.0	61.3	258.8	328.2	503.5	3,274.2
1974	188.3	1,067.0	0.4	569.0	90.4	341.2	381.7	384.2	3,062.0
1975	182.8	846.2	71.4	333.6	69.7	240.0	405.0	398.1	2,400.4
1976	116.5	599.3	87.1	274.0	88.1	270.8	433.8	373.8	2,234.0
1977									
January	170.0	805.8	87.0	304.1	83.5	316.2	610.0	640.8	[illegible]
February	209.5	805.1	105.1	406.6	86.3	405.3	560.0	647.0	[illegible]
March	200.4	661.7	171.5	257.3	97.6	286.5	505.5	610.4	[illegible]
April	130.7	568.1	155.3	110.1	85.1	210.5	485.0	662.4	[illegible]
May	138.5	437.8	172.6	152.7	105.6	338.1	376.2	667.0	[illegible]
June	137.7	493.0	160.1	186.2	80.4	271.1	302.0	616.0	[illegible]
July	169.0	462.9	158.7	230.0	129.7	275.8	677.7	640.1	2,473.7
August	168.8	801.5	213.6	224.5	80.4	281.2	461.6	585.9	2,526.5
September	140.2	579.5	167.6	201.1	195.7	250.5	423.9	750.1	2,629.0
October	122.3	487.0	266.8	197.4	110.1	280.4	451.9	612.8	2,520.8
November	184.4	584.8	230.7	93.3	88.7	237.2	462.8	656.7	[illegible]
December	150.8	580.1	185.5	191.9	97.8	305.5	555.6	579.2	2,656.6
TOTAL	165.0	616.6	172.2	213.7	105.2	286.0	486.2	666.7	[illegible]
1978									
January	107.5	470.7	233.4	215.2	98.0	295.0	416.0	583.3	2,941.1
February	217.6	607.5	221.9	225.2	90.6	295.8	490.0	587.2	2,669.4
March	211.5	436.9	230.9	238.1	83.6	274.2	452.8	560.8	2,508.8
April	140.9	382.4	231.4	296.3	95.0	303.1	371.9	765.7	2,548.7
May	154.3	386.0	257.6	230.8	73.6	180.8	300.0	758.8	2,368.7
June	144.6	472.6	387.1	213.3	117.8	195.3	326.5	803.7	2,442.7
July	166.0	511.0	318.5	301.8	93.8	257.7	402.2	825.4	2,821.2
August	107.7	R622.9	R372.9	R281.0	82.3	R247.6	421.0	R610.4	R2,045.8
September	118.9	441.8	460.0	214.1	81.2	282.9	431.6	835.8	2,857.7
October	126.9	312.9	392.1	180.0	87.5	303.8	476.3	731.8	2,948.0
November	152.8	468.8	381.1	223.4	84.7	211.1	485.7	816.8	2,826.8
TOTAL (Year to date)	164.0	460.7	306.7	228.6	90.2	256.7	424.8	684.3	[illegible]

R=Revised data

Source: Bureau of Mines *Mineral Industry Surveys*, "Petroleum Statement, Monthly" and "PAD Districts Supply/Demand Monthly," through April 1977, EIA *Energy Data Reports* "PAD Districts Supply/Demand Monthly" for May 1977 through August 1978, and EIA "Monthly Petroleum Statistics Report" for September 1978 through November 1978.

Residual Fuel Oil

		Domestic Demand	Production	Imports	Exports	Stocks
		Thousands of barrels per day				Thousands of barrels
1972	AVERAGE	2,530	786	1,742	25	[illegible]
1973	AVERAGE	2,822	971	1,853	33	53,480
1974	AVERAGE	2,639	1,070	1,587	14	60,084
1975	AVERAGE	2,462	1,235	1,223	15	74,126
1976	AVERAGE	2,801	1,377	1,413	10	72,344
1977	January	3,761	1,889	1,996	2	64,745
	February	3,662	1,951	1,863	6	71,418
	March	3,150	1,716	1,617	3	71,186
	April	2,595	1,687	1,125	3	70,185
	May	2,719	1,671	1,165	5	73,376
	June	2,934	1,716	1,181	3	71,924
	July	2,805	1,729	1,271	18	77,770
	August	3,046	1,636	1,441	5	78,762
	September	2,820	1,700	1,456	3	87,527
	October	2,707	1,743	1,216	3	95,896
	November	2,819	1,695	1,094	7	95,155
	December	3,396	1,939	1,346	12	89,873
	AVERAGE	3,000	1,751	1,359	6	
1978	January	3,498	1,872	1,398	13	81,434
	February	3,364	1,801	1,665	10	84,852
	March	3,536	1,790	1,700	22	82,167
	April	2,952	1,836	1,365	7	86,229
	May	2,667	1,806	1,271	18	73,300
	June	2,610	1,887	1,012	4	71,918
	July	2,780	1,583	1,296	10	75,346
	August	R2,879	R1,638	1,264	25	R73,748
	September	2,721	1,800	1,311	NA	81,167
	October	2,653	1,765	1,115	NA	82,710
	November	R2,818	R1,875	R1,365	NA	86,672
	December	3,161	1,863	1,390	NA	86,276
	AVERAGE	3,000	1,800	1,345	13	

‡Total as of December 31

R=Revised data

NA=Not available

Note: Bureau of Mines' stock coverage was expanded at the end of 1974 to include an additional 100 bulk terminal operators. The new coverage begins here with 1975.

Sources: 1972 through 1976: Bureau of Mines (BOM) *Mineral Industry Surveys*, "Petroleum Statement, Annual." January 1977 through April 1977: Bureau of Mines *Mineral Industry Surveys*, "Petroleum Statement, Monthly." May 1977 through August 1978: Energy Information Administration (EIA) *Energy Data Reports*, "Petroleum Statement, Monthly." September 1978 through November 1978: EIA "Monthly Petroleum Statistics Report." December 1978 data are EIA estimates based on data from the American Petroleum Institute (API) "Weekly Statistical Bulletin."

Executive Summary (Continued)

Domestic Energy Consumption by Primary Energy Type

		Coal[1]	Natural Gas (dry)	Petroleum	Hydro-electric Power[2]	Nuclear Electric Power	Geothermal Power and Other[3]	Total	Yearly Cumulative Total
		Quadrillion (10¹⁵) Btu							
1972	TOTAL	12.441	22.698	32.966	2.863	0.577	0.011	71.960	
1973	TOTAL	13.310	22.512	34.862	2.916	0.880	0.042	74.609	
1974	TOTAL	12.880	21.732	33.455	3.308	1.210	0.117	72.759	
1975	TOTAL	12.822	19.948	32.732	3.217	1.900	0.080	70.679	
1976	January	1.218	2.337	3.177	0.252	0.172	0.006	7.189	7.189
	February	1.070	1.877	2.781	0.266	0.163	0.005	6.268	13.457
	March	1.117	1.795	2.868	0.287	0.145	0.006	6.262	19.719
	April	1.067	1.630	2.749	0.267	0.117	0.004	5.737	25.456
	May	1.075	1.463	2.727	0.276	0.127	0.004	5.665	31.121
	June	1.112	1.257	2.774	0.276	0.169	0.005	5.697	36.818
	July	1.185	1.299	2.829	0.281	0.189	0.007	5.891	42.710
	August	1.196	1.343	2.835	0.258	0.196	0.009	5.836	48.545
	September	1.095	1.328	2.776	0.221	0.184	0.008	5.613	54.158
	October	1.137	1.653	2.912	0.229	0.185	0.013	6.124	60.282
	November	1.191	1.912	3.107	0.216	0.172	0.008	6.607	66.889
	December	1.250	2.277	3.503	0.221	0.225	0.010	7.524	74.413
	TOTAL	13.748	20.345	35.125	[illegible]	[illegible]	[illegible]	74.412	
1977	January	1.287	2.438	3.468	0.203	0.226	0.006	7.710	7.710
	February	1.161	1.854	3.142	0.170	0.209	0.007	6.530	14.240
	March	1.144	1.751	3.076	0.224	0.220	0.006	6.422	20.662
	April	1.067	1.488	2.897	0.212	0.212	0.005	5.852	26.514
	May	1.120	1.408	2.890	0.213	0.220	0.006	5.858	32.372
	June	1.178	1.361	2.976	0.197	0.229	0.007	5.949	38.321
	July	1.277	1.353	2.993	0.193	0.233	0.009	6.054	44.374
	August	1.240	1.303	3.092	0.192	0.243	0.009	6.151	50.525
	September	1.153	1.457	2.924	0.189	0.209	0.015	5.947	56.472
	October	1.144	1.560	3.030	0.197	0.203	0.012	6.144	62.616
	November	1.157	1.725	3.060	0.231	0.207	0.008	6.368	68.985
	December	1.220	2.152	3.415	0.255	0.253	0.013	7.314	76.299
	TOTAL	14.100	19.821	36.847	2.511	2.674	0.100	76.299	
1978	January	R1.277	2.420	3.558	0.278	0.275	0.009	R7.590	R7.590
	February	1.049	2.160	3.212	0.251	0.233	0.008	R6.912	R14.502
	March	R0.999	1.979	3.344	0.275	0.235	0.011	R6.797	R21.299
	April	R1.030	1.645	2.927	R0.281	0.187	0.017	R5.989	R27.288
	May	R1.111	1.381	3.009	R0.317	0.210	0.021	R6.138	R33.426
	June	R1.188	1.248	3.012	R0.280	0.236	0.014	R5.977	R39.403
	July	R1.262	1.335	3.084	R0.272	0.267	0.020	R6.160	R45.564
	August	R1.303	1.299	R3.171	R0.248	0.273	0.020	R6.296	R51.860
	September	1.229	R1.248	2.999	R0.238	0.237	0.019	R5.916	R57.776
	October	1.173	1.419	3.117	R0.221	0.245	R0.017	R6.192	R63.968
	November	1.186	1.695	3.111	0.226	0.205	0.019	6.491	70.459
	December	[e]1.271	2.113	3.246	[e]0.241	[e]0.220	[e]0.017	[e]7.213	[e]77.672
	TOTAL	[illegible]	19.770	37.920	3.131	[illegible]	0.181	77.672	

[1] Includes bituminous coal, lignite, and anthracite coal.

[2] Includes industrial and utility production, and net imports of electricity.

[3] Other includes electricity produced from wood and waste, and net imports of coke.

[e] Estimated data.

R=Revised data.

Note: Totals may not equal sum of components due to independent rounding.

Source: EIA calculations based on data reported elsewhere in this publication.

Executive Summary (Continued)

Domestic Energy Consumption by Economic Sector[1]

		Residential/Commercial	Industrial	Transportation	Total
		Quadrillion (10¹⁵) Btu			
1973	TOTAL	26.570	29.171	18.870	74.609
1974	TOTAL	25.909	28.042	18.298	72.759
1975	TOTAL	26.260	26.117	18.338	70.679
1976	January	3.139	2.430	1.630	7.189
	February	2.801	2.114	1.663	6.268
	March	2.430	2.203	1.626	6.262
	April	2.087	2.070	1.580	5.737
	May	1.910	2.183	1.553	5.665
	June	1.886	2.222	1.586	5.697
	July	1.975	2.278	1.637	5.891
	August	1.983	2.260	1.593	5.836
	September	1.844	2.211	1.558	5.613
	October	1.958	2.566	1.600	6.124
	November	2.377	2.588	1.642	6.607
	December	3.012	2.718	1.794	7.524
	TOTAL	27.270	27.871	18.270	74.413
1977	January	3.423	2.594	1.722	7.710
	February	2.980	1.970	1.580	6.530
	March	2.507	2.262	1.652	6.422
	April	2.100	2.122	1.631	5.852
	May	1.832	2.218	1.808	5.858
	June	1.877	2.273	1.840	5.949
	July	2.129	2.281	1.670	6.054
	August	2.121	2.361	1.669	6.151
	September	1.814	2.303	1.614	5.947
	October	2.019	2.475	1.650	6.144
	November	R2.216	R2.538	1.645	6.368
	December	2.660	2.660	1.807	7.314
	TOTAL	28.331	28.196	18.910	76.299
1978	January	R3.253	R2.586	1.751	R7.590
	February	3.150	R2.190	1.612	R6.912
	March	R2.672	R2.149	1.775	R6.797
	April	2.230	R2.120	1.617	R5.989
	May	2.122	R2.279	1.737	R6.138
	June	R2.038	R2.256	1.704	R5.977
	July	2.171	R2.336	1.666	R6.160
	August	R2.184	R2.343	1.769	R6.296
	September	R2.021	R2.260	1.630	R5.916
	October	R2.053	R2.441	1.695	R6.192
	November	2.298	2.480	1.712	6.491
	December	[e]2.887	[e]2.632	[e]1.794	[e]7.213
	TOTAL	28.391	27.860	20.418	77.672

[1] See Explanatory Note 6 for definitions of the Residential/Commercial, Industrial, and Transportation sectors. The methodology used for sector calculations is provided in the footnotes on page 22.

[e] Estimated data.

R=Revised data.

Note: Totals may not equal sum of components due to independent rounding.

Source: See footnotes on page 22.

Energy Consumption (Continued)

Energy Consumption by the Residential and Commercial Economic Sector[1]

		Coal	Natural Gas (Dry)	Petroleum[2]	Electricity Distributed	Electrical Energy Loss Distributed	Total Energy Use	Yearly Cumulative Total Energy Use
		Quadrillion (10¹⁵) Btu						
1973	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
1974	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
1975	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
1976	January	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	February	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	March	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	April	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	May	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	June	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	July	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	August	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	September	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	October	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	November	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	December	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
1977	January	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	February	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	March	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	April	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	May	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	June	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	July	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	August	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	September	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	October	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	November	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	December	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
1978	January	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	February	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	March	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	April	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	May	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	June	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	July	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	August	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	September	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	October	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	November	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	December	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	

(See footnotes on page 71)
Source: See footnotes on page 23.

Energy Consumption (Continued)

Energy Consumption by the Transportation Economic Sector[1]

		Coal	Natural Gas[4] (Dry)	Petroleum	Electricity Distributed	Electrical Energy Loss Distributed	Total Energy Use	Yearly Cumulative Total Energy Use
		Quadrillion (10¹⁵) Btu						
1973	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
1974	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
1975	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
1976	January	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	February	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	March	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	April	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	May	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	June	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	July	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	August	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	September	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	October	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	November	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	December	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL	[illegible]	[illegible]	18.434	[illegible]	0.155	[illegible]	
1977	January	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	February	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	March	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	April	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	May	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	June	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	July	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	August	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	September	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	October	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	November	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	December	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
1978	January	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	February	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	March	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	April	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	May	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	June	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	July	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	August	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	September	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	October	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	November	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	December	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	

[1] See Explanatory Note 6 for definitions of the Residential and Commercial, Industrial, and Transportation Sectors. The methodology used for sector calculations is provided in footnotes on page 23. Printed totals may differ slightly from the sum of their row/column components due to independent rounding.

[2] The percentage share used in calculating Residential and Commercial consumption of petroleum was 52.5 percent for 1973 and 50.7 percent for 1974, 1975, 1976, 1977, and 1978.

[3] The percentage share used in calculating Industrial consumption of petroleum was 47.5 percent for 1973 and 49.3 percent for 1974, 1975, 1976, 1977, and 1978.

[4] The percentage share used in calculating Transportation consumption of natural gas was 3.0 percent for 1973 and 3.0 percent for 1974, 1975, 1976, 1977, and 1978. This percentage share is applied to total natural gas minus electric utility consumption.

R=Revised data

Source: See footnotes on page 23.

Energy Consumption by the Industrial Economic Sector[1]

		Coal	Natural Gas (dry)	Petroleum[2]	Hydro-electric	Electricity Distributed	Electrical Energy Loss Distributed	Total Energy Use	Yearly Cumulative Total Energy Use
		Quadrillion (10¹⁵) Btu							
1973	TOTAL	4.277	10.437	[illegible]	[illegible]	[illegible]	[illegible]	20.171	
1974	TOTAL	[illegible]	10.133	[illegible]	[illegible]	[illegible]	[illegible]	20.043	
1975	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	20.117	
1976	January	0.316	0.789	0.641	0.003	0.196	0.483	2.436	2.436
	February	0.299	0.619	0.584	0.003	0.196	0.431	2.114	4.550
	March	0.317	0.617	0.565	0.003	0.206	0.506	2.203	6.753
	April	0.316	0.587	0.486	0.003	0.205	0.473	2.070	8.823
	May	0.273	0.659	0.482	0.003	0.205	0.508	2.193	11.016
	June	0.309	0.673	0.474	0.003	0.214	0.560	2.232	13.248
	July	0.306	0.733	0.473	0.001	0.213	0.552	2.279	15.527
	August	0.300	0.709	0.491	0.002	0.218	0.539	2.260	17.788
	September	0.299	0.712	0.506	0.002	0.220	0.470	2.211	19.999
	October	0.314	0.657	0.553	0.003	0.218	0.576	2.566	22.565
	November	0.277	0.805	0.635	0.003	0.215	0.537	2.588	25.153
	December	0.353	0.900	0.710	0.003	0.216	0.540	2.718	27.871
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	27.871	
1977	January	0.319	0.790	0.693	0.003	0.210	0.539	2.554	2.554
	February	0.305	0.373	0.655	0.003	0.206	0.428	1.970	4.524
	March	0.326	0.613	0.661	0.003	0.216	0.515	2.262	6.786
	April	0.300	0.572	0.623	0.003	0.216	0.501	2.122	8.908
	May	0.303	0.655	0.616	0.003	0.223	0.578	2.318	11.226
	June	0.295	0.660	0.528	0.003	0.226	0.582	2.323	13.549
	July	0.288	0.661	0.499	0.003	0.226	0.575	2.261	15.810
	August	0.276	0.730	0.536	0.002	0.226	0.584	2.341	18.150
	September	0.287	0.617	0.533	0.003	0.226	0.511	2.359	20.509
	October	0.298	0.631	0.584	0.003	0.227	0.522	2.475	22.985
	November	0.297	R0.840	0.580	0.003	0.222	0.553	R2.508	R25.492
	December	0.303	0.895	0.666	0.003	0.218	0.568	2.604	R28.196
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	28.196	
1978	January	0.285	0.853	0.636	0.003	0.210	0.573	R2.596	R2.596
	February	0.244	0.180	0.630	0.003	0.208	0.477	R2.150	R4.746
	March	R0.240	0.180	0.619	0.003	0.210	0.568	R2.169	R6.916
	April	R0.272	0.570	0.566	0.003	0.218	0.516	R2.170	R9.016
	May	R0.290	0.579	0.565	0.003	[illegible]	0.613	R2.279	R11.295
	June	R0.285	0.563	0.579	0.003	[illegible]	0.619	R2.235	R13.529
	July	R0.289	0.557	0.522	0.003	[illegible]	0.606	R2.306	R15.835
	August	R0.295	0.650	R0.565	0.002	[illegible]	R0.618	R2.343	R18.178
	September	R0.295	R0.652	R0.532	0.003	0.230	0.560	R2.252	R20.430
	October	R0.295	R0.743	0.595	0.003	0.230	R0.560	R2.441	R22.871
	November	0.305	0.782	0.567	0.003	0.234	0.573	2.480	25.351
	December	0.305	0.877	0.597	0.003	0.230	0.580	2.452	27.803
	TOTAL	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	27.803	

(See footnotes on page 26)
Source: See footnotes on page 26

Oil and Gas Exploration and Development

		Rotary Rigs in Operation		Exploratory and Development Wells Drilled[1]				Total Footage of Wells Drilled[1]
		Monthly Average		Oil	Gas	Dry	Total	Thousands of feet
1972	AVERAGE	1,107	TOTAL	11,306	4,928	11,057	27,291	[illegible]
1973	AVERAGE	1,194	TOTAL	9,902	6,385	10,305	26,592	[illegible]
1974	AVERAGE	1,475	TOTAL	12,784	7,240	11,674	31,698	[illegible]
1975	AVERAGE	1,660	TOTAL	16,408	7,580	13,247	37,235	[illegible]
1976	January	1,710		1,465	772	1,055	3,292	14,517
	February	1,584		1,341	652	1,158	3,152	[illegible]
	March	1,540		1,726	821	1,301	3,848	16,128
	April	1,460		1,237	672	[illegible]	2,803	13,765
	May	1,486		1,501	658	1,104	3,263	14,195
	June	1,588		1,500	709	1,123	3,332	14,780
	July	1,597		1,312	730	916	2,958	13,716
	August	1,651		1,266	711	1,140	3,116	14,097
	September	1,744		1,474	809	1,199	3,482	16,777
	October	1,786		1,398	750	1,123	3,266	14,542
	November	1,840		1,291	668	1,222	3,211	14,647
	December	1,800		1,512	826	1,414	3,752	17,083
	AVERAGE	[illegible]	TOTAL	17,060	[illegible]	[illegible]	[illegible]	181,760
1977	January	1,650		1,391	732	1,096	3,219	14,517
	February	1,696		1,321	705	999	3,025	14,463
	March	1,687		1,817	958	1,297	4,072	18,400
	April	1,807		1,405	818	1,059	3,282	15,523
	May	1,907		1,387	877	1,150	3,409	16,702
	June	2,008		1,720	852	1,270	3,942	18,767
	July	2,023		1,304	724	1,022	3,050	14,529
	August	2,066		1,400	881	1,179	3,540	16,938
	September	2,084		1,924	1,105	1,288	4,317	19,333
	October	2,101		1,562	1,024	1,254	3,840	18,000
	November	2,113		1,705	1,091	1,447	4,323	19,537
	December	2,141		1,875	1,387	1,569	4,831	21,386
	AVERAGE	2,001	TOTAL	18,912	11,378	14,888	[illegible]	210,040
1978	January	2,128		1,166	760	1,233	3,280	15,985
	February	2,135		1,486	851	1,239	3,576	16,933
	March	2,158		1,499	1,247	1,420	4,166	20,382
	April	2,198		1,369	871	1,112	3,452	17,559
	May	2,249		1,209	1,004	1,166	3,379	17,189
	June	2,266		1,812	1,071	1,989	4,372	21,115
	July	2,301		1,503	985	1,191	3,679	17,298
	August	2,325		1,516	1,085	1,290	3,891	18,440
	September	2,332		1,619	1,277	1,511	4,357	21,234
	October	2,346		1,395	1,142	1,441	3,938	19,109
	November	2,358		1,294	1,027	1,308	3,629	17,805
	December	2,395		1,651	1,086	1,820	5,277	24,109
	AVERAGE	[illegible]	TOTAL	17,340	[illegible]	18,224	45,010	[illegible]

[1] Excludes service wells and stratigraphic and core tests
NA = Not available
Note: Totals reflect subsequent data revisions and therefore may not agree with cumulative monthly data
Sources: Rotary Rigs: Hughes Tool Company "Rotary Rigs Running—By State." Wells: American Petroleum Institute "Monthly Drilling Report" and "Quarterly Review of Drilling Statistics for the United States."

Crude Oil (Continued)

Estimated Landed Cost of Imports From Selected Countries[1]

		Algeria	Canada	Indonesia	Iran	Libya	Nigeria	Saudi Arabia	U.A. Emirates	Venezuela
		Dollars per barrel								
1975	AVERAGE	12.72	12.70	12.70	12.21	12.26	12.82	12.39	12.07	11.86
1976	January	13.58	12.95	13.09	13.01	13.52	13.61	13.18	13.00	11.90
	February	13.57	13.24	13.94	12.87	13.45	13.52	13.21	13.36	12.09
	March	13.63	13.30	13.94	12.77	13.36	13.62	13.18	13.37	11.71
	April	13.73	13.61	13.78	12.91	13.38	13.60	13.11	13.18	11.95
	May	13.47	13.62	13.84	12.87	13.59	13.62	13.06	13.39	11.81
	June	13.75	14.19	13.84	13.00	13.38	13.78	13.14	13.09	11.56
	July	13.77	13.79	13.80	12.76	13.63	13.81	13.02	13.45	11.44
	August	13.81	13.78	13.78	13.09	13.51	13.87	13.03	13.23	11.77
	September	14.03	13.70	13.80	12.78	13.72	13.82	12.87	13.44	11.98
	October	13.81	13.71	13.84	12.73	13.83	13.99	12.87	13.22	11.84
	November	13.84	13.58	13.77	12.58	13.73	13.85	13.01	13.18	12.01
	December	14.14	13.52	13.75	12.69	13.78	14.11	13.02	13.39	12.19
	AVERAGE	13.81	13.07	13.80	12.82	13.60	13.80	13.04	13.20	11.80
1977	January	14.80	13.92	14.47	13.16	14.64	14.87	13.22	13.56	13.29
	February	15.18	13.74	14.57	13.56	15.12	15.12	13.32	13.46	13.76
	March	15.08	14.34	14.64	13.94	14.88	15.13	13.50	13.80	13.41
	April	15.21	14.02	14.70	13.95	15.12	15.37	13.41	13.78	13.19
	May	15.20	14.94	14.59	13.86	14.91	15.40	13.49	13.86	13.10
	June	15.34	14.49	14.63	13.81	14.92	15.37	13.39	13.72	13.06
	July	15.29	13.81	14.75	13.74	14.88	15.39	13.84	14.20	13.02
	August	15.24	14.24	14.85	13.99	14.70	15.25	13.72	14.38	12.82
	September	15.29	14.14	14.67	13.77	14.90	15.34	14.01	14.61	13.08
	October	15.41	14.00	14.67	13.83	14.81	15.31	13.85	14.56	13.16
	November	15.05	14.52	14.73	13.88	14.73	15.23	13.94	14.19	13.11
	December	15.25	14.27	14.90	13.95	14.01	15.21	13.80	14.40	12.89
	AVERAGE	15.20	14.21	14.68	13.60	14.07	15.25	13.61	14.04	13.13
1978	January	15.01	14.37	14.80	13.91	14.63	14.88	13.93	14.40	13.00
	February	14.91	14.31	14.53	13.75	14.85	14.90	13.98	14.07	12.93
	March	14.74	13.56	14.56	14.06	14.67	14.89	14.07	14.64	13.22
	April	14.91	13.50	14.61	13.80	14.63	14.63	13.85	14.42	12.09
	May	14.70	14.30	14.50	13.94	14.56	14.72	13.96	14.70	12.49
	June	14.80	15.07	14.58	13.92	14.45	14.61	13.86	14.48	12.72
	July	14.83	14.64	14.73	13.93	14.85	14.64	13.81	14.79	12.41
	August	14.83	14.70	14.66	13.76	14.64	14.59	13.84	14.49	12.70
	September	14.74	13.92	14.73	13.83	14.62	14.70	14.03	14.38	12.94
	October	14.80	14.77	14.68	13.99	14.81	15.03	13.88	14.91	12.78
	November	15.20	14.72	14.86	13.80	15.04	15.08	14.02	14.28	13.08

[1] See Explanatory Note 10.

Source: FEA Form F701-M-0 "Transfer Pricing Report." Data provided by the Economic Regulatory Administration.

Crude Oil (Continued)

Estimated FOB Cost of Imports from Selected Countries[1]

		Algeria	Canada	Indonesia	Iran	Libya	Nigeria	Saudi Arabia	U.A. Emirates	Venezuela
		Dollars per barrel								
1976	January	12.98	NA	12.77	11.61	12.34	12.05	11.67	11.91	11.15
	February	12.89	NA	12.77	11.48	12.34	12.05	11.64	11.83	11.61
	March	12.93	NA	12.70	11.45	12.34	12.84	11.71	11.91	11.26
	April	12.98	NA	12.74	11.58	12.39	12.95	11.72	11.86	11.28
	May	13.01	NA	12.76	11.56	12.45	12.97	11.81	11.88	11.10
	June	13.02	NA	12.74	11.62	12.40	12.97	11.64	11.83	11.03
	July	13.05	NA	12.79	11.64	12.64	13.11	11.88	11.88	10.87
	August	13.08	NA	12.75	11.51	12.52	13.08	11.88	11.92	11.19
	September	13.12	NA	13.73	11.66	12.66	13.08	11.88	11.87	11.53
	October	13.09	NA	12.70	11.63	12.70	13.25	11.85	11.83	11.61
	November	13.12	NA	12.71	11.62	12.74	13.25	11.82	11.96	11.98
	December	13.21	NA	12.82	11.78	12.83	13.36	11.68	12.16	11.77
1977	January	14.03	NA	13.41	12.03	13.04	14.11	11.92	12.53	12.01
	February	14.31	NA	13.43	12.38	13.09	14.24	12.04	12.33	12.30
	March	14.29	NA	13.50	12.79	13.87	14.32	12.24	12.91	12.90
	April	14.34	NA	13.56	12.70	13.98	14.51	12.23	12.53	12.62
	May	14.31	NA	13.57	12.70	13.83	14.56	12.23	12.56	12.60
	June	14.35	NA	13.55	12.98	13.94	14.55	12.21	12.64	12.53
	July	14.43	NA	13.61	12.78	13.98	14.52	12.40	12.70	12.48
	August	14.48	NA	13.63	12.80	13.95	14.54	12.56	13.15	12.37
	September	14.43	NA	13.64	12.73	13.99	14.56	12.72	13.20	12.56
	October	14.43	NA	13.65	12.79	13.93	14.48	12.70	13.22	12.72
	November	14.37	NA	13.66	12.75	13.88	14.53	12.73	13.32	12.71
	December	14.44	NA	13.61	12.71	13.86	14.46	12.77	13.27	12.65
1978	January	14.29	NA	13.67	12.62	13.77	14.18	12.70	13.23	12.73
	February	14.21	NA	13.62	12.68	13.91	14.18	12.78	13.18	12.61
	March	14.17	NA	13.62	12.68	13.75	14.13	12.80	13.20	12.86
	April	14.08	NA	13.61	12.68	13.62	13.91	12.74	13.23	12.54
	May	13.99	NA	13.51	12.65	13.59	13.90	12.71	13.05	12.13
	June	14.06	NA	13.63	12.60	13.59	13.90	12.67	13.20	12.32
	July	14.06	NA	13.63	12.70	13.67	13.89	12.65	13.26	12.66
	August	14.05	NA	13.63	12.63	13.66	13.86	12.66	13.27	12.23
	September	14.06	NA	13.60	12.63	13.66	13.97	12.76	13.27	12.38
	October	14.08	NA	13.63	12.64	13.73	14.08	12.59	13.24	12.32
	November	14.13	NA	13.70	12.62	13.87	14.12	12.63	13.29	12.46

[1] The FOB cost excludes all costs related to insurance and transportation. See Explanatory Note 10.

NA=Not available

Source: FEA Form F701-M-0 "Transfer Pricing Report." Data provided by the Economic Regulatory Administration.

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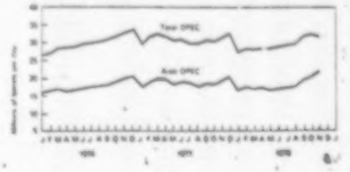
Petroleum Consumption

Petroleum Consumption for Major Free World Industrialized Countries

Crude Oil Production

Crude Oil Production for Major Petroleum Exporting Countries

OPEC Countries Crude Oil Production



APPENDIX B—STATUS OF REGULATORY SUPPLY MANAGEMENT AND DEMAND RESTRAINT PLANS

REGULATORY SUPPLY MANAGEMENT AND DEMAND RESTRAINT PLANS

Standby Crude Oil Allocation and Price Regulations, and Refinery Yield Program

Proposed standby regulations were published in the FEDERAL REGISTER on February 10, 1978, and covered the following regulatory programs:

Standby Crude Oil Allocation Program.

Emergency Standby Mandatory Allocation Crude Oil Pricing Program.

Refinery Yield Control Program.

Public hearings were held in June 1978, and a further hearing was held on September 26, 1978, regarding a provision for the allocation of crude oil to product importers.

The final standby regulations were published on January 16, 1979, and further comments were requested by March 15.

Standby Product Allocation and Pricing Regulations

Standby product allocation and pricing regulations were promulgated and published in a Notice of Proposed Rulemaking in the FEDERAL REGISTER in July 1978. Public hearings began in Washington, D.C. on September 12, 1978. Following the review of comments offered, final regulations were published in the FEDERAL REGISTER on January 18, 1979. Further comments were requested by March 15.

Gasoline Rationing

Background.—Federal planning for gasoline rationing was first undertaken in the fall of 1973 as one of several possible responses to declining domestic petroleum production and to the growing dependence of the United States on foreign sources of supply. These efforts were accelerated during the 1973-74 embargo and implementation activities were initiated. After the embargo, the Federal Energy Administration decided, in 1975, to complete the rationing planning process begun during the embargo, and a draft plan was prepared.

In December 1975, Congress passed and the President signed the Energy Policy and Conservation Act (EPCA) which required, among other things, the development of a gasoline rationing contingency plan. During early 1976, the FEA prepared a draft rationing plan to meet the EPCA requirement. Proposed regulations were published in the FEDERAL REGISTER and hearings were held in several cities. In January 1977, the rationing plan was prepared for submission to Congress. After the current Administration assumed office, however, it was decided to delay the Congressional review process until there was a reevaluation of the plan's provisions.

Current Status.—The reevaluation of the previous rationing plan has led to important changes to make it more quickly implementable and more effective. A revised plan was published in proposed form in the FEDERAL REGISTER of June 28, 1978, and public hearings were held during July and August, resulting in over 1,000 oral and written comments. The President transmitted the plan to Congress on March 1, 1979.

Conservation Contingency Plans

Background.—The Energy Policy and Conservation Act of 1975 required the Administration to develop conservation contingency plans for petroleum emergencies. Six such plans were developed during the previous Administration, covering the areas of:

Heating, cooling and hot water restrictions;

Commuter parking management and carpooling incentives;

Weekend gasoline and diesel fuel retail distribution restrictions;

Boiler combustion efficiency requirements;

Restrictions on illuminated advertising;

Restrictions on certain gas lighting.

These plans were prepared for submission to Congress in 1976 but were withheld by the current Administration for further evaluation and study.

Current Status.—On March 1, 1979, the President submitted the following plans to the Congress:

Plan No. 1—*Emergency Weekend Gasoline Sales Restrictions.* This program would allow DOE to prohibit owners or operators of retail stations from dispensing gasoline and diesel fuel during designated weekend hours, except to specified commercial and emergency vehicles.

Plan No. 2—*Emergency Building Temperature Restrictions.* Under this plan, DOE could impose energy reducing heating, cooling and hot water temperature restrictions on the owners and operators of commercial and public buildings.

Plan No. 3—*Emergency Advertising Lighting.* This plan would allow DOE to prohibit the use of illuminated advertising signs except for those necessary during business hours to identify a business and the goods or services it offers and to direct customers to it.

We are also analyzing and evaluating a number of new contingency conservation plans. We expect to complete the development of a selected group of these additional plans during FY 1979.

APPENDIX C—PRESENT AND PROJECTED QUANTITIES OF PETROLEUM STORED IN THE STRATEGIC PETROLEUM RESERVE

The Department of Energy is in the process of implementing plans for the storage of an initial 250 million barrels of petroleum in the Strategic Petroleum Reserve (SPR). As of February 11, 1979, 77,000,000 barrels had been delivered to the SPR and it is expected that a goal of 248 million barrels will be met by the end of 1980. However, in view of the Iranian situation it is uncertain whether the current rate of fill, which is 10 million barrels a month, can be maintained. DOE plans currently call for a total of 340 million barrels to be purchased and stored by the end of 1981, 418 million by the end of 1982, and 524 million by the end of 1983. The Department also has submitted to the Congress, in Energy Action DOE No. 1, May 1978, a second amendment to the SPR Plan, this amendment became effective in June 1978, and provides for expansion of the SPR program to one billion barrels of petroleum, to be in storage by 1985, however, specific implementation plans have not been formulated nor have funding decisions been made as of this date.

APPENDIX D—PRODUCTION PROJECTIONS FOR NEW AND EMERGING TECHNOLOGIES.*

Production of energy from new and emerging energy technologies currently comprises a negligible portion of domestic energy needs. In the near future, however, energy production from solar, wind, and geothermal sources is expected to provide a small but increasingly significant contribution to domestic energy self-sufficiency, as the following table illustrates:

PRODUCTION LIMITS FOR NEW AND EMERGING TECHNOLOGIES

[Trillions of Btu Per Year]

	1985		1990	
	Lowest of limit	Highest of limit	Lowest of limit	Highest of limit
Synthetic Fuels:				
Shale Oil	100	100	500	620
Syncrude & liquid boiler fuels from coal	60	60	68	370
High Btu coal gas	61	61	305	345
Medium Btu coal gas	0	0	340	340
Methanol (from coal)	0	0	0	38
Solid Waste Conversion [1]	0	130	0	400
Subtotal	(285)	(285)	(870)	(1,800)
Geothermal Central Electric [1] [2]	73	73	196	394
Dispersed	8	10	19	30
Subtotal	(80)	(83)	(201)	(330)
Central Electric Technologies:				
Wind Systems [1]	1	1	7	9
Photovoltaic & Solar Thermal	2	3	14	11
Ocean Thermal	1	1	8	6
Biomass or electricity [1]	0	13	16	36
Low Med Btu-Combined Cycle	0	0	0	200
Subtotals [3]	(13)	(18)	(45)	(267)
Dispersed Technologies Solar & Wood Heat & Cooling of bldgs	27	33	88	106
Photovoltaic	0	0	1	3
Wind	1	1	5	20
Subtotals [3]	(30)	(34)	(73)	(130)

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*These projections have been developed by the Energy Information Administration of DOE. Because the assumptions upon which the projections are based constantly change and are subject to differing interpretations, the data expressed herein solely represent the conclusions of the Energy Information Administration.

PRODUCTION LIMITS FOR NEW AND EMERGING TECHNOLOGIES—Continued

[Trillions of Btu Per Year]

	1985		1990	
	Lowest of limit	Highest of limit	Lowest of limit	Highest of limit
Industrial & Arig. Solar Process Heat	30	80	80	250
Biomass (over 1978 levels)	100	300	200	600
Subtotals	(120)	(250)	(200)	(750)
Transportation Liquids from biomass (gasohol)	2	5	15	40
Total	507	773	1,478	3,288
Adjusted Total [5]	(707)	(1,013)	(2,025)	(4,413)
Oil Equivalent (MMB/D) [6]	330	477	953	2,077

[1] The amounts shown are technically possible and on a case by case bases economically possible, but in an integrative analysis the technologies here noted frequently do not enter the forecast in the amounts shown.

[2] The solid waste conversion figures are highly uncertain and are currently being reviewed.

[3] The amounts shown for centralized electricity is the heat value of the electricity produced. An estimate of the heat value of the possible fuel saved to generate the same amount of electricity can be obtained by multiplying the figures shown by 3.

[4] It is estimated that one-half the energy saved by these dispersed technologies is electricity. The heat value of the fuel saved in electricity generation can be estimated by taking one-half of the figure shown and multiplying it by 3.

[5] The adjusted total is an estimate of heat value of gas and oil saved by using the new technologies at the limit shown. The adjustment for heat losses in electricity generation is included in these figures.

[6] The oil equivalent figure is shown for the adjusted totals. It was computed assuming 5.82 × 1,000,000 Btu per barrel of crude oil.

APPENDIX E—IMPACT OF THE CURTAILMENT OF IRANIAN EXPORTS, "THE OUTLOOK FOR THE IMPLEMENTATION OF THE INTERNATIONAL ENERGY AGREEMENT'S EMERGENCY OIL SUPPLY PROGRAM," AND THE OUTLOOK FOR ADDITIONAL OIL IMPORTS FROM MEXICO

Shortages Created by the Iranian Situation. The political situation in Iran has resulted in a net reduction in world oil production of approximately 2 million barrels per day compared with the level of late 1978. On the basis of the percentage of reliance upon imports alone, the United States' share of the shortfall would be approximately 500,000 barrels per day. If the International Energy Agreement were triggered, the shortfall could be apportioned ultimately on the basis of total petroleum demand. In that event, the U.S. share of the shortfall could increase to approximately 800,000 barrels per day.

The Iranian situation underscores the danger to national security of excessive consumption of oil and consequent undue dependence upon imported petroleum.

The Outlook for Implementing IEA Sharing Plans. The IEA Governing Board will meet on March 1-2, 1979, to review the impact of the Iranian situation and to discuss appropriate policy responses designed to reduce consumption, increase production, encourage fuel switching, and ensure equitable allocation of available production.

It does not now appear that the emergency oil supply program will be fully implemented. Aggregate oil supplies available to IEA countries have not fallen seven percent below consumption in the base period, which would trigger the emergency sharing mechanism. A limited sharing program could be triggered if oil supplies to any single member country fall 7 percent below its base period consumption. Three or four countries are possible candidates for such selective triggering. If an individual country did trigger the emergency sharing mechanism, it would be required first to reduce its oil consumption by 7 percent.

A voluntary commercial redirection of oil supplies is already underway which should help distribute available supplies to accommodate the more severely affected countries.

The Outlook for Additional Oil Imports from Mexico. Mexican oil production is currently approximately 1.5 million barrels daily of which some 500,000 b/d are being exported. The United States receives about 80-90 percent of Mexican oil exports. Mexico's production efforts are substantial but it is unlikely that oil production can be increased significantly in the near term beyond the levels already targeted. Mexico's end of 1980 production goal is 2.2 million b/d, with exports of about 1.1 million b/d. Beyond 1980, oil production levels will be determined by the Mexican Government; President Lopez Portillo has recently suggested the pace of future development will be somewhat slower than previously expected.

APPENDIX F—THE IMPACT OF THE NEA ON THE REDUCTION OF U.S. OIL IMPORTS

The National Energy Act is principally a longer term program that does not have large potential for reducing oil imports in 1979-80. The principal near term impact will be through the Natural Gas Policy Act, which has created a national market for natural gas and made available to the interstate market substantial volumes of gas that is surplus to the demands of the intrastate markets. If the full potential were realized, the import reduction could be a few hundred thousand barrels per day. In the short term, however, there are institutional and other constraints that w[illegible]event realization of the maximum po[illegible]. The acts relating to Conservation, U[illegible] Rate Reform, Coal Conversion, and E[illegible]gy Tax Credits will have a relatively small impact in 1979 and 1980.

For the longer term, it is projected that the National Energy Act will reduce the demand for imports in 1985 by 2.5 to 3 million barrels per day. Nevertheless, 1985 imports of petroleum are expected to be between 9.0 and 10.0 million barrels per day. Thus, while the NEA is a significant step in the right direction, it will not alone solve the energy and economic problem of heavy dependence upon imports.

APPENDIX G—COMPARISON OF CURRENT DATA WITH THE DATA UTILIZED IN THE 1975 REPORT OF INVESTIGATION OF EFFECT OF PETROLEUM IMPORTS AND PETROLEUM PRODUCTS ON THE NATIONAL SECURITY

1. PERCENT OF DOMESTIC ENERGY CONSUMPTION BY PRIMARY ENERGY TYPE

	1975 Report	*Current Data*[1]
A. Petroleum	46%	49%
B. Natural Gas	31%	26%
C. Coal	18%	18%
D. Hydroelectric	4%	4%
E. Nuclear	1%	4%

2. CRUDE OIL PRODUCTION

	1975 Report	*Current Data*
A. World	55	[2]62.9
B. OPEC	30	[2]31.6
C. Communist Countries	11	([illegible])
D. U.S.	8.8	[2]8.7

3. DOMESTIC PETROLEUM PRODUCT DEMAND

1975 Report	*Current Data*
16.3	[4]18.7

4. CRUDE AND PRODUCT IMPORTS

1975 Report	*Current Data*
5.8	[5]8.1

5. IMPORTS AS A PERCENT OF DOMESTIC PETROLEUM DEMAND

1975 Report	*Current Data*
35.0%	[6]43.4%

6. DIRECT CRUDE AND PRODUCT IMPORTS FROM OPEC

1975 Report	*Current Data*
3.8	[6]5.5

7. INDIRECT CRUDE AND PRODUCT IMPORTS FROM OPEC

1975 Report	*Current Data*
.86	[6]1.3

8. PERCENTAGE OF TOTAL PETROLEUM IMPORTS ORIGINATING IN OPEC

	1975 Report	*Current Data*
A. Direct	60%	67.8%
B. Indirect	15%	14.9%
C. Total	75%	82.7%

9. PERCENTAGE OF DOMESTIC PETROLEUM DEMAND ORIGINATING IN OPEC

1975 Report	*Current Data*
25%	35.8%

10. IMPORTS FROM MAJOR WESTERN HEMISPHERE PRODUCER/SUPPLIERS

	1975 Report	*Current Data*[6]
A. Canada	1.0	.65
B. Venezuela (OPEC)	1.1	.62
C. Mexico	([6])	.31
D. Total as a percent of imports	30%	17%

(All numbers are in Millions of Barrels Per Day unless otherwise noted)

The source for the following data is the Monthly Energy Review, February 1978, published by the Department of Energy:

[1] Numbers equal less than 100% due to rounding—Average for 1978.

[2] November 1978.

[3] *Ibid.*

[4] Average for 1978.

[5] *Ibid.*

[6] *Ibid.*

[7] Average for 1978; DOE not account for refinery loss of processing imported crude.

[8] Average for first eleven months of 1978.

[9] Average for first five months of 1978.

[10] Average for first eleven months of 1978.

[11] No comparable date immediately available.

[12] Not reported.

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WASHINGTON, D.C., FEBRUARY 9, 1979.

DEAR MR. MUNDHEIM: I am replying to your letter of February 6, requesting the review, and if needed, revision of my April 3, 1978 letter to you regarding the impact of oil imports on the national security of the United States.

I have reviewed the earlier exchange, and conclude that the comments contained in my April 3 letter are still current, and are responsive to the specific questions posed in your letter of March 27, 1978.

You further requested the Department's views on the impact of the recent cessation of Iranian oil exports on the national security, pursuant to Section 232(b) of the Trade Expansion Act of 1962. The Iranian situation has underscored the serious implications of our dependence upon foreign suppliers for nearly one-half of all petroleum and petroleum products consumed in the United States. It further reinforces our judgment, as stated in my letter of April 3, that oil and oil products are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States.

Sincerely,

RICHARD N. COOPER,
Under Secretary of State
For Economic Affairs.

DEPARTMENT OF STATE

WASHINGTON, D.C.,
April 3, 1978.

Mr. ROBERT H. MUNDHEIM, *The General Counsel of the Treasury, Washington, D.C.*

DEAR MR. MUNDHEIM: I am responding to your March 27 letter to Secretary Vance requesting the views of the State Department as to whether oil or oil products are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security of the United States.

Notwithstanding the economic disruption suffered by the United States as a direct consequence of the 1973-74 oil embargo and owing to the massive price increases which came in its wake, our dependence on imported oil has been increasing. Last year, the United States depended upon imports of petroleum and petroleum products to meet almost 50 percent of domestic demand. Forty-seven percent of our crude oil imports came from the Arab nations which imposed the embargo, and another 40 percent came from non-Arab members of the market-dominating Organization of Petroleum Exporting Countries (OPEC).

Thus, the United States remains vulnerable to interruptions in the supply of imported oil and to substantial price increases which could severely disrupt our economy. Furthermore, it is our view, and that of major OPEC producers and our allies, that a continuation of the current trend in United States imports eventually could be a major factor in creating a seller's market for internationally traded oil, increasing the possibility of large oil price increases. Such increases would not only affect the United States economy directly, but seriously damage the prospects for the growth and stability of the world economy.

It is true that there are other countries which are even more heavily dependent on imported oil as a source of energy than is the United States. However, their role in the maintenance of world peace and global security is less than that of the United States, and they have less potential than do we to increase their energy production. They also, like the United States, feel a great sense of unease at their dependence on imported petroleum, and their sense of vulnerability is heightened when they see the degree to which the United States, the leader in the NATO Alliance, relies so heavily on outside sources of crude oil.

The following are our comments on the five specific points you asked us to address:

1. Our treaty obligations, particularly those that relate to mutual security, require the United States to be able to conduct an effective defense of its own interest and to make an effective contribution to the defense of its allies. Heavy dependence on imported oil can create doubts about our ability to sustain prolonged conflicts and assist our allies in an optimum way.

2. It is our view that the current oil import situation impairs our ability to achieve our foreign policy objectives, both economic and political, in ways that are spelled out in this letter. Moreover, the way in which we deal with this situation is widely regarded by other countries as a test of United States leadership and determination to play a constructive role in international relations.

3. The International Energy Agency's oil sharing program, particularly when the full amount of the oil stocks it contemplates is in place, can significantly lessen the impact of potential supply disruptions on us and our allies. Nevertheless, even when the United States strategic Petroleum Reserve is full, it can only delay the impact of a prolonged, severe shortage of oil and is not designed to offer protection against the effects of abrupt price increases. In recognition of this, the members of the International Energy Agency have adopted a separate objective of reducing the group's projected dependence on imported oil to no more than 26 million barrels a day by 1985. Currently, owing in large part to projections of oil imports by the United States on the basis of current policies, achievement of that objective is endangered.

4. Both the Soviet Union and China are net oil exporters. The United States, dependent on far-flung lines of supply and foreign sources for a large percentage of its needs, is at an obvious strategic disadvantage.

5. Our high level of oil import dependence has contributed substantially to a current account deficit that has reduced international confidence in the dollar. This in turn has created unwonted difficulties in achieving the maximum degree of international cooperation to further our objective of promoting a stable, balanced recovery of the world economy from the present severe recession.

In sum, it is our overall judgment that oil and oil products are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States; effective action is required to remedy this situation.

Sincerely,

RICHARD N. COOPER,
Acting Secretary.

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POTENTIAL ECONOMIC IMPACTS OF A PARTIAL OIL EMBARGO

U.S. DEPARTMENT OF TRANSPORTATION

OCTOBER 26, 1978.

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III Possible Mitigation of Impacts.
IV Impacts on Transportation Modes.
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APPENDIX A—AVAILABILITY OF PETROLEUM STOCKS

SECTION I—INTRODUCTION

An embargo is assumed that cuts off 3 million barrels of imported oil per day for a six-month period, accounting for approximately 15.7 percent of current consumption.

The economic impacts are examined under two scenarios:

1. Petroleum consumption is reduced 15.7 percent in all sectors of the economy.

2. All the reduction of 3 million barrels per day is concentrated in personal auto use.

Neither of these scenarios represents an optimum allocation of petroleum products; they reflect a pessimistic forecast of the economic impact of two extreme allocation policies. The impacts could probably be reduced by an improved allocation policy; drawdown of stocks of petroleum products and substitute fuels; increases in domestic production of fuels; and further conservation. However, it should be remembered that it is difficult to change institutional patterns of energy consumption, production and distribution in the short term, especially without warning and careful advance planning. Therefore, the results presented here may be realistic for a disruptive period following a sudden embargo.

Background information on trends in the consumption of petroleum products and other fuels, domestic production of oil, and oil imports is presented in Table 1. It may be noted that total energy consumption has been growing somewhat slower than real GNP; however, based on data for the first five months of 1978, total energy consumption may grow at about the same rate as GNP in 1978. The consumption of petroleum products has been growing as fast or faster than the GNP for several years (reflecting a sharp decrease in the production of natural gas while coal production has kept pace with GNP growth) but has slowed in 1978. Oil imports have been increasing dramatically until 1978 as a result of a sharp decline in domestic production of oil. However, imports of oil have declined in 1978 largely reflecting the increase in domestic supply from Alaska. In fact, for the first six months of 1978 crude oil imports declined 14 percent, compared to the same six months a year earlier.

TABLE 1. CONSUMPTION OF PETROLEUM PRODUCTS BY SECTOR AND SELECTED ENERGY INDEXES

CATEGORY	1973	1974	1975	1976	1977	Estimated		
						1978	1979	78:4-79:2
Thousands of Barrels Per Day								
Industrial[a]	3145	3088	2858	3192	3353	3444	3638	3541
Residential and Commercial	3380	3207	3018	3381	3502	3553	3751	3652
Transportation[b]	9131	8881	8957	9430	9746	9907	10162	10035
Electric Utilities	1532	1467	1389	1520	1789	1803	1847	1825
Total	17308	16653	16322	17463	18350	18707	19398	19053
Oil Imports (crude and products)	6256	6112	6056	7313	8744	7936[c]	—	—
Indexes: 1973 = 100								
Real GNP (Constant 1972 dols.)	100.0	98.6	97.4	103.2	108.3	112.7	117.7	—
Energy Consumption								
Total Energy	100.0	97.3	94.7	99.8	101.9	106.1	—	—
Petroleum Products	100.0	96.2	94.3	100.8	106.0	108.1	112.1	—
Coal	100.0	97.5	96.6	102.5	106.3	—	—	—
Natural Gas	100.0	96.5	88.6	90.4	87.1	—	—	—
Energy Supply								
Crude Oil Domestic Production	100.0	96.3	91.0	88.3	88.4	95.1	—	—
Oil Imports (crude and products)	100.0	97.7	96.8	116.9	139.8	126.9[d]	—	—

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[a] Includes agriculture, mining, construction, and manufacturing.

[b] Includes military operations.

[c] Average for January through June 1978.

[d] Based on January through June 1978.

Source: Monthly Energy Review, August 1978, Energy Information Administration, U.S. Department of Energy. Survey of Current Business, various issues, Bureau of Economic Analysis, U.S. Department of Commerce.

SECTION II—IMPACTS ON GNP

A reduction of 15.7 percent in the consumption of petroleum products in all sectors (the first scenario) would tend to reduce GNP in the short term by a like percentage if no conservation was possible, no fuel substitution was possible, no sustained drawdown of petroleum stocks was possible, and the mix of products and services demanded in the economy remained the same. This follows since petroleum products are an essential input, directly or indirectly, to all industries in the economy, and a balanced level of production among intermediate and final products would settle down to the reduced level. The full effects would occur with a one- to two-month lag as fuel in transit and working stocks were depleted.

Freight transportation would be affected by essentially the same percentage as all other sectors of the economy in this worst case assumption. The demand for discretionary travel, however, would probably decline more than the 15.7 percent drop postulated, due to a reduction in incomes and an increase in uncertainty with respect to future incomes. Discretionary travel,[1] largely by auto, is estimated to account for about 12 percent of total petroleum consumption. If this travel is cut voluntarily by 33 percent (due to income declines) which seems reasonable, then petroleum products would be freed up for use elsewhere in the economy, resulting in a reduction of only 13.4 percent in the remainder of the economy.

Some conservation would be possible in industry, transportation (in addition to discretionary travel), and commercial use without reducing output or economic activity. Households might be persuaded to reduce consumption for space heating and other uses. It is estimated that these sectors could absorb on the average a 5 percent decrease in consumption, without decreasing output. Therefore, an 8.4 percent reduction in output is estimated to occur in all sectors, except those associated with discretionary auto driving, increasing to this level over a one to two month period.

A best estimate is an 8.4 percent reduction in the GNP over a six-month period for the scenario under which a 15.7 percent drop in oil consumption is assumed[2] without any formal allocation system or drawing down of petroleum industry stocks of oil and other fuels. Again, it should be pointed out that this is a pessimistic forecast, and the results could possibly be mitigated through some of the steps discussed in the next section.

The second scenario under which all of the reduction would be concentrated in personal auto would mean a 52 percent reduction in auto usage, but only about a 1.2 percent reduction in GNP over the six-month period. Even if all discretionary driving is eliminated, a 20 percent reduction in commutation and business use would be needed to accommodate the 3 million barrel per day reduction in petroleum demand. The effect on the tourist and recreational industry would be major. Hotels and motels would probably lose over 25 percent of their business. Auto service stations and repair shops would probably suffer revenue losses of up to 50 percent. The impact on auto sales could be severe in the short term, but the losses would probably be largely recouped later. The effect on GNP is estimated at about a 1.2 percent annual rate over the six-month period (see Section V). This GNP loss would affect some establishments more severely than others. Lodging and eating establishments located in tourist areas would suffer extensive losses while establishments in business areas would realize only minor losses.

SECTION III—POSSIBLE MITIGATION OF IMPACTS

The impacts under the first scenario could probably be reduced by one or more of several actions that might be feasible:

1. drawdown of stocks of petroleum products;
2. drawdown of stocks of other fuels to substitute for petroleum use;
3. higher conservation in the residential and commercial sector for space heating and cooling; and
4. higher reduction in consumption in energy intensive industries.

Drawdown of petroleum industry and user stocks (crude and products) might be feasible up to 300 million barrels. This would be from safety and cyclical stocks estimated at 800 million barrels normally.[3] However, a large drawdown of these stocks would inevitably lead to imbalances in specific locations. Over recent years, including the 1973-74 embargo period, the maximum drawdown in these stocks over a few-months period has been around 200 million barrels. To achieve this much drawdown by design would probably entail very close scheduling in the transportation and distribution system. A drawdown of this amount would significantly mitigate the necessary reduction in petroleum consumption across-the-board. Under the 15.7 percent across-the-board reduction in consumption scenario, the GNP impact might be reduced to about 2 percent (from the 8.4 percent best estimate without a drawdown of petroleum stocks, see Section II).

Scenario 2 concentrates the reduction in petroleum use in automobile travel for both discretionary and business uses. Under this scenario the GNP would be reduced by about 1 percent from the impacts on auto related industries (see Section V). If conservation in other sectors of the economy and industry stock drawdown were encouraged, the GNP impacts could be reduced and the cutbacks in discretionary driving could be brought down to 46 percent from 100 percent and the cutbacks in business travel would be limited to the 5 percent savings from conservation. Table 2 presents a summary of the effects of various mitigation efforts on each Scenario.

TABLE 2.—*Mitigation of Impacts on Gross National Product 1978:4-1979:1*

[Barrels per day in thousands]

	Scenario 1 across-the-board reductions		Scenario 2 personal auto reduction only	
	Barrels per day	Percent[1]	Barrels per day	Percent[2]
Total petroleum cutback	3,000	15.7	3,000	
Mitigation of GNP reduction				
Demand reduction from discretionary travel	700		2,300	
Demand reduction required from other sectors	2,320	13.4	600	
Demand reduction from business travel			600	1.10
Demand reduction from conservation	657		657	
Shortfall	1,661	8.4	0	
Drawdown from industry stocks	1,111		1,111	
Shortfall	550	2.9	0	
Excess supply available from conservation and stock drawdown	0		[3]1,068	

[1] Reduction in total GNP after each mitigation effort.

[2] Reduction in total GNP.

[3] In Scenario 2 the petroleum available from industry stock drawdown and conservation could be used to eliminate the reduction in business travel and cut the reduction in discretionary travel to 1032 TBD (46 percent of discretionary travel demand) and thus the GNP impact would be reduced to about 0.5 percent.

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[1] Discretionary travel accounts for about 40 percent of all auto vehicle miles. It includes all social and recreational driving and about a third of family business driving. These estimates are reported in the National Personal Transportation Study, *Household Travel in the United States*, Report No. 7, December 1972.

[3] See Appendix A.

Drawdown of natural gas and coal stocks might also be feasible and, to the extent that these fuels could be substituted for oil, would reduce the impacts further.

It should be kept in mind that a drawdown of either stocks of petroleum or other fuels would have the effect of spreading the impact over a longer time frame than the six-month period and at a lower rate of impact. These stocks would need to be replenished after the embargo and the extent to which stock replenishment would affect the economy would be determined by the rate at which supplies would be available after the embargo. In a case where the supply rate required for stock replenishment could be obtained in addition to the supply rate for normal petroleum demand, the impacts would not carry over into the post-embargo period.

In the future the Strategic Petroleum Reserve (SPR) could provide some additional relief. When the reserve is filled, it is designed to satisfy all petroleum requirements above the domestic production for a 120 day period. The current fill is about 35 million barrels. Estimates for the fill by December 1980 range from a base case of 325 million barrels to a maximum achievable under an accelerated program of 465 million barrels. The long range goal is 1 billion barrels. As the current supply would account for less than two weeks of the shortfall assumed in this study, the SPR is not considered in the analysis.

Higher cut-backs in residential and commercial consumption for space heating and other uses would probably be possible only with stringent rationing and controls over consumption since a significant reduction has already been postulated (13.4 percent under the assumptions of the first scenario).

Higher cut backs in energy intensive industries probably do not hold much promise since these are generally basic industries upon which the rest of the economy is dependent. Some higher cut-back might be possible, by depleting the inventories of the products of these industries, for a limited time and still maintain balanced production in the remainder of the economy.

SECTION IV—IMPACTS ON TRANSPORTATION MODES

A cutoff of a specified amount of present crude oil and/or petroleum product imports would affect transportation modes in two ways, as transporters of the crude oil and petroleum products and as consumers of petroleum products. The estimated consumption of petroleum products by mode is presented in Table 3.

TABLE 3. - ESTIMATED 1978 TRANSPORTATION CONSUMPTION OF PETROLEUM PRODUCTS

	Thousands of Barrels Per Day					
	Petroleum Products	Gasoline	Diesel Fuel	Res.-Res. Oil	Jet Fuel	Av. Gas
All Modes	9669.7	7106.8	1107.0	801.6	663.3	31.6
Railroads	583.0		583.0			
Water Modes	943.5	63.4	330.1	561.6		
Domestic Freight	316.3		46.0	270.3		
International Freight	336.1		36.0	300.1		
Commercial Fishing Boats	[illegible]	3.0	89.1			
Recreation Boats	66.4	60.4	6.0			
Highway Total	7935.5	7163.0	900.5			
Auto (and personal truck)	5770.6	5770.6				
Truck	2061.5	1300.0	761.5			
For Hire						
Local	98.5	67.7	30.8			
Intercity	473.6	88.0	385.7			
Private						
Local Freight	907.7	901.0	6.7			
Intercity Freight	313.9	110.6	203.3			
Non-Freight	913.5	800.7	112.8			
Government	97.1	91.3	5.8			
Buses						
Intercity	10.4	.3	10.1			
Transit	31.4	.3	31.1			
Private	33.4	33.1	.3			
School	30.0	29.7	.3			
Other	4.0	4.0	0.0			
Pipelines	13.3[a]		13.3[a]			
Aviation	694.9				663.3	31.6
Commercial Aviation	647.1				644.0	3.1
General Aviation	47.8				19.3	28.5

[a] 1974 data; most energy consumed by pipelines is natural gas or electricity.

Sources: Monthly Energy Review, U.S. Department of Energy, August 1978; Highway Statistics, U.S. Department of Transportation, various issues; Monthly Report of Gasoline Sales, Ethyl Corporation, various issues; Yearbook of Railroad Facts, 1977 and preliminary 1978 edition, Association of American Railroads; Aviation Forecasts, 1978-1989 and 1979-1990 preliminary edition, FAA, U.S. Department of Transportation; and Energy Consumption by Transportation Mode, report submitted by Jack Faucett Associates, May 1975 to DOT, U.S. Department of Transportation.

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TRANSPORTATION MODES AS TRANSPORTERS OF CRUDE OIL AND PETROLEUM PRODUCTS

Forced curtailments in imports of crude oils and/or petroleum products would reduce the quantities of those products that have to be transported. Some highlights of the kinds of impacts that might be expected on different modes are as follows:

International Water

Virtually all crude oil and petroleum product imports except those from Canada enter the U.S. via water. Thus a 50 percent cutback in imports would cause a comparable percentage reduction in the tonnage output required. Most crude oil is carried on foreign flag vessels. These may be owned by U.S. based multinational corporations. It seems likely that the reductions would not be made proportionately by port of entry but adjusted so that supplies of crude to refineries would be kept in balance and so that the requirements for further transport of the refined products could be minimized. Specifically this would mean that a higher percentage of the imports would be focused on PAD I (Northeast-Atlantic Coast Area) since this region's refineries receive over 90% of their crude from foreign sources.

Domestic Water

The domestic water carriers provide significant service in the transportation of petroleum products and also crude oil. It is expected that the transportation requirements placed on the transportation of crude oil and petroleum products would be reduced somewhat less than the reduction in overall petroleum product demands. For example, transportation requirements for Alaskan oil would not be reduced and could be expanded if more of the oil was shipped over water to Gulf and East Coast ports. Also for petroleum products most production based on domestic oil is located away from consumption areas while for imports the refineries which use this crude are located close to consumption areas.

In 1976 about 60 percent of crude oil and petroleum product ton miles in domestic water were handled by private carriers. In these cases most of the economic impacts of the loss of business in transporting these products would be part of the total impact on the petroleum companies which own most of the vessels. The remaining 40 percent are provided by for-hire carriers. They are likely to be specialized carriers and therefore could individually be singificantly impacted by curtailed business.

Pipelines

Pipelines may be divided along the line of the products carried, crude oil vs. petroleum products although many companies are engaged in carrying both these goods though in separate lines. The pipelines serve to carry crude oil from coastal import landing areas to inland refinery locations and from areas of excess domestic crude production to other areas for refining. Individual pipelines which carry imported crude might therfore face a reduction in throughput while those which transport domestic oil might not.

Petroleum product flows would also be cut as a result of the decreased imports. Overall pipeline flow decreases might approximate the overall 15.7 percent average decline in petroleum product consumption.

Trucking

Trucks are involved in the final delivery of most motor fuels and distillate fuels for heating. These companies would, therefore suffer a loss in business that might be proportional to the overall percentage reduction in petroleum product consumption if the reduction is made proportionally across the board. The total effect on the industry would be similar under both scenarios, as in each case the demand reduction is 3 million barrels per day. However, scenario 2 concentrates this reduction in auto use (52 percent reduction in scenario 2 vs. 21 percent in scenario 1) and thus, those industry segments that typically deliver motor fuels would suffer greater losses than other segments of the trucking industry. Carrying these products apparently accounted for about 8 percent of trucking intercity ton-miles in 1972.

TRANSPORTATION AS USERS OF PETROLEUM PRODUCTS

As users of petroleum products in a partial embargo situation, transportation modes will be balancing reduced demands for their services vs. reduced fuel availabilities to see whether they will be able to provide the demanded services with the available fuels or whether lack of fuels might constrain their output. The ability to reduce fuel use without affecting output is likely to differ significantly across the modes, for instance those that tend to operate at low load factors (as most of the passenger modes do) should be able through rescheduling to accomodate the desired pasenger travel, though at some inconvenience due to the rescheduling with significantly lower energy consumption. This can cause other disruptions such as employee layoffs.

Among the freight modes the load factors are higher, and the scheduling problems more complicated (especially for trucks) and there could, therefore, be less opportunity for retaining output levels while reducing energy consumption.

The last section of this report which reviews the impacts of the 1973-1974 embargo may also be helpful to give a feel for the type of modal impacts that might be expected.

SECTION V—IMPACT ON AUTO TRAVEL RELATED INDUSTRIES

The impact on GNP and employment would be minimized by concentrating the reduction in oil consumption more heavily in personal auto. However, this would have very serious impacts on a number of auto travel related industries.

In Scenario 1 GNP is reduced by $10.2 billion in auto related industries or approximately 0.49 percent of total GNP measured at annual rates. The largest reduction in terms of total GNP is in auto repair services where GNP is reduced by $2.5 billion (annual rate). The reduction is about 21 percent of the Gross Product Originating (GPO)[1] of this sector. Gasoline service stations and eating and drinking places cut GNP by $1.9 billion and $1.7 billion respectively.

Scenario 2 results in $24.8 billion, or 1.18 percent, cut in GNP at annual rates. The actual dollar reduction would be approximately half the reduction of the annual rate as shown in Table 4. Auto repair services are again the most heavily affected sector cutting total GNP by $6.2 billion. Reduced activity in gasoline service stations reduce GNP by $4.6 billion. The hotel and lodging industry derives about thirty percent of its revenue from pleasure as opposed to business and convention customers. Of these approximately 80 percent arrive by private auto. Only 40 percent of the business and convention customers arrive at their lodging via private auto. This translates into a GNP reduction of $3.5 billion from a 100 percent cutback in discretionary auto use and a 20 percent cutback in other auto use. The food and beverage industries also rely heavily on tourist purchases. In 1970 about 15 percent of food and beverages purchased away from home were purchased more than 50 miles from home. Of all trips of 100 miles or more made in 1976, the private auto was the primary mode for 72.3 percent of them. The cutback in auto use reduces the contribution to GNP from the food and beverage industry by about 7 percent of $4.4 billion.

The impacts on the auto related industries are based on driving cutbacks of 21 percent in Scenario 1 and 52 percent in Scenario 2. Fuel conservation and industry stock drawdown could reduce the GNP impacts somewhat. In Scenario 1, this available fuel would probably be employed in the manufacturing sector and would have only a minor effect on total GNP reductions in the auto related industries. However, in Scenario 2, this fuel would be available to auto users and could cut the GNP impact by more than 50 percent.

TABLE 4.—*Estimated Reduction in Gross Product Originating by Sector Resulting From the Impact on Auto Travel Related Industries of a Partial Oil Embargo*

[Annual Rates]

Sector	1978 GPO by industry Millions $	Reduction in GPO			
		Scenario 1		Scenario 2	
		Millions $	Percent	Millions $	Percent
Motor vehicle dealers	9.338	934	10.0	1.868	20.0
Other auto and accessory dealers	4.980	1.047	21.0	2.590	52.0
Auto repair services	11.914	2.502	21.0	6.195	52.0
Gasoline service stations	8.820	1.852	21.0	4.586	52.0
Motor vehicle manufacturing	8.338	834	10.0	1.668	20.0
Eating and drinking places	63.233	1.666	2.6	4.381	6.9
Hotels and other lodging places	11.333	1.326	11.7	3.467	30.6
Total		10.161	a 0.49	24.788	a 1.18

a Based on a Gross National Product of $2.095 billion.

Scenario 1: 21 percent reduction in overall auto use; 33 percent reduction in the use of auto for discretionary auto travel; and a 13.4 percent reduction in the use of auto for all other purposes.

Scenario 2: 52 reduction in overall auto use; 100 percent reduction in use of auto for discretionary auto travel; and a 30 percent reduction in the use of auto for all other purposes.

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[1] Gross Product Originating (GPO) is the portion of GNP contributed by each sector of the economy. The sum of GPO across all sectors is GNP.

Other impacts not considered could include the effect on construction of vacation homes and real estate values in recreational developments. These impacts, alone with the impact on new car sales, could be dramatic initially but probably could be recouped later if there were confidence that the embargo would be lifted. It should also be noted that some establishments will be impacted more than others and the revenues for some resort hotels could be reduced by as much as 80 percent.

SECTION VI—IMPACTS OF THE 1973-74 EMBARGO

The oil embargo, which was imposed October 18, 1973, by the Organization of Petroleum Exporting Countries, remained in effect until March 18, 1974. By the first quarter of 1974, there was an estimated shortfall of 3.1 million barrels per day in petroleum products, or 15.1 percent of total anticipated consumption.

Table 5 presents data measuring the imports of petroleum products just prior to and during the embargo. During the months just prior to the embargo and before the embargo impacted on actual deliveries, imports were running approximately 2.1 million barrels per day above the previous year. As the embargo took effect, imports fell to approximately 1 million barrels below the same month a year earlier.

TABLE 5.—*U.S. petroleum imports*

[thousand barrels per day]

Date	Total imports	Total one year before	Change from previous year
Aug. 24, 1973	5.767	3.650	2.118
Sept. 21, 1973	6.291	4.170	2.121
Oct. 19, 1973	6.720	4.594	2.126
Nov. 16, 1973	6.630	4.531	2.100
Feb. 1, 1974	5.200	6.538	-1.338
Feb. 8, 1974	4.446	5.353	-907
Feb. 15, 1974	4.578	5.707	-1.129
Feb. 22, 1974	4.883	5.790	-907
Mar. 1, 1974	5.211	6.354	-1.143
Mar. 22, 1974	5.309	6.437	-1.128

Source: *Oil and Gas Journal.*

Federal policies, aided by market forces, were designed to minimize the impact of the embargo on the Gross National Product. This is illustrated in Table 6 by estimates of the extent of the shortfall in required energy experienced by major segments of the economy.

TABLE 6.—*The distribution of embargo oil shortfall on the sectors of the economy*

Household and commercial	17%
Industrial	3%
Transportation	17%
All sectors	15%

Source: *The Economic Impacts of a Interruption in United States Petroleum Imports: 1975-2000,* Office of Naval Research, Department of the Navy, November 1975.

The Federal Energy Administration estimated that the overall impact of the embargo on the economy resulted in a reduction in projected GNP of 1.3 to 2.5 percent, below its anticipated level.

As noted in Table 6, the embargo had a substantial impact on both commercial and non-commercial transportation. The following are some indications of the extent of this impact.

Automobile

During the embargo the consumption of gasoline in autos decreased by approximately 8 percent, as a result of the higher prices and the inconvenience of queuing to get gasoline when compared to the previous years consumption. Had consumption continued to grow at its previous rate, auto fuel use would have been approximately 14 percent higher than the embargo levels. Based on a survey conducted in the summer of 1974, in Portland, Oregon, an estimate was made of the effect of the embargo on the behavior of families with automobiles. Table 7 identifies the extent to which these families changed their modal use pattern due to the embargo.

TABLE 7.—*Effect of the 1973-74 embargo on the use of autos by urban families in Portland, Oregon*

Type of change	Percent of families
No change	52
Switch to other modes	28
Reduced auto travel	16
Miscellaneous mode changes	4
	100

Source: Boris W. Becker, et al., "Behavior of Car Owners During the Gasoline Shortage," *Traffic Quarterly,* July 1976.

The decline in the use of autos severely impacted on the auto industry. General Motors' sales dropped by 5.6 percent, Ford's fell by 13.8 percent and Chrysler declined by 19 percent during the first ten days of November 1973. In December, there were week-long shutdowns of 16 GM plants, while Chrysler closed 7 of its plants in January, putting more than 38,000 employees out of work.

The decline in the use of autos is also reflected in the reduced sales of motor gasoline. As indicated in Table 8 sales in the first quarter of 1974 were approximately 7.9 percent below the same quarter a year earlier. While sales improved through the rest of the year, they did not exceed the 1973 levels until the third quarter of 1974.

TABLE 8.—*Sales of motor gasoline*

Quarter	1973	1974	Percent change 1973-74
	(Millions of gallons)		
I	22.945	21.130	-7.9
II	24.831	24.400	-2.1
III	25.709	25.296	-1.6
IV	24.120	24.418	-1.3
Total	97.785	95.241	-2.6

Source: *Yearly Report of Gasoline Sales,* Ethyl Corporation, 1974.

Trucking

Trucking was also severely affected by the embargo. This was illustrated by a strike of owner-operators which began on January 31, 1974, due to several circumstances resulting from the embargo, including the lowering of the speed limit to 55 miles per hour, the sharp rise in the price of fuel, and the general scarcity of fuel which forced many drivers to chase from truck stop to truck stop to obtain fuel. Approximately 100,000 workers were reportedly laid off due to the truckers' strike.

Due to the increase in the cost of fuel between May 1973 and February 1974, and partially in reaction to the independent operators' stoppage, the ICC allowed a 6 percent fuel surcharge for general commodity regulated carriers. This surcharge was strongly contested by many of the industries which rely on trucking for the movement of their manufactured products.

Railroad

The use of passenger service and freight service increased during the embargo. Commodities transported by rail reached a record 845 billion ton-miles in 1973, or nearly 9 percent over the previous record. The increased use of rail obviously resulted in higher operating revenues, though the more than 50 percent increase in fuel prices from the previous year severely impacted on the financial position of the railroads. In February of 1974, the Interstate Commerce Commission permitted interim increases in rates of 4 percent to offset the increased cost of fuel and wages.

The availability of operating fuel was also a problem for railroads. While there was an increase in the use of rail service, this industry was limited to 100 percent of current needs for fuel consumption for the movement of fuel and passengers, and 110 percent of the 1972 level for the movement of other commodities.

Maritime Industry

Even though bunker oil was not subject to fuel allocation controls several shipping lines took action to reduce their consumption of bunker oil. Sea-Land Service took four ships out of service, Sea-Train laid up two ships, while Matson Navigation Co. curtailed service of one vessel. Trans-American Trail and United States Lines reduced the speeds of some of their vessels to conserve on fuel. Energy conservation was also achieved through rationalization, which is the procedure by which sailing are spaced on a given trade to maximize the utilization of ship capacity.

Airlines

Airlines were severely affected by the embargo. Initially, the mandatory allocation program limited the fuel consumption of airlines to their 1972 levels, which was approximately 10 percent below requirements. To meet this situation, airlines competing in the same markets agreed on reduction in capacity. American, TWA and United agreed to reduce capacity in 20 major markets through the cancellation of 82 flights in 15 markets and down-grading equipment in the remaining areas.

As the embargo continued and worsened, the President called for the further reductions in the consumption of fuel by air service. Table 9 identifies the extent of the reductions requested below 1972 consumption levels.

TABLE 9.—*Requested reduction in fuel consumption below 1972 levels*

Type of Air Service	Percent Reduction
Domestic Trunk	15
Local Service Carriers	10
International Carriers	15
Commercial and Industrial Users	10
Business and Executive Users	20
Personal, Pleasure, and Instructional	30

Source: Unpublished memoranda, Transportation Systems, Center, U.S. Department of Transportation, May 21, 1975.

By December, 400 daily domestic flights were cut from the original 13,800 scheduled.

Layoffs were widespread in the industry by January 7, 1974. Table 10 identifies the extent of the employment cuts.

TABLE 10.—*Layoffs by selected domestic carriers due to the embargo as of January 7, 1974*

Airlines	Number of Employees
Eastern	3,000
TWA	2,300
American	3,100
Pan American	1,000
Continental	732
Frontier	550
United	970
Northwest	130

Source: Unpublished memoranda, Transportation Systems Center, U.S. Department of Transportation, May 21, 1975.

Paul R. Ignatius, president of the Air Transportations Association of America described the plight of the airlines during the embargo. He noted that from Novemeber 1973 until the fuel allocation program took full effect, the airlines had furlough 15,000 employees, cancel 2,200 daily departures and ground 125 aircraft.

Fuel costs for domestic airlines, which rose only 13 percent in the five year period from 1967 to 1972, jumped approximately 20 percent from December 1973 to January 1974 and by March were 47 percent higher than a year earlier.

APPENDIX A—AVAILABILITY OF PETROLEUM STOCKS

Since 1972 the petroleum industry has normally maintained petroleum stocks of between 1,000 and 1,225 million barrels.[1] A report prepared[2] for the Department of Energy's Office of Strategic Petroleum Reserves (SPRO) estimates that for April 1977 stocks averaged 1,120 million barrels and were made up as follows:

Operating Inventory:	
Safety Stock	233 million barrels
Cycle Stock	301 million barrels
Seasonal Inventory:	
Seasonal Stock	90 million barrels
Storage Tank Bottoms	104 million barrels
Unavailable Inventory:	
Equipment Fill	1 million barrels
Pipeline Fill	367 million barrels
In transit (non-pipeline	35 million barrels
Total	1,131 million barrels

Exhibit 1 schematically illustrates the volume of the petroleum industry and shows how crude and oil products fill that volume over time.

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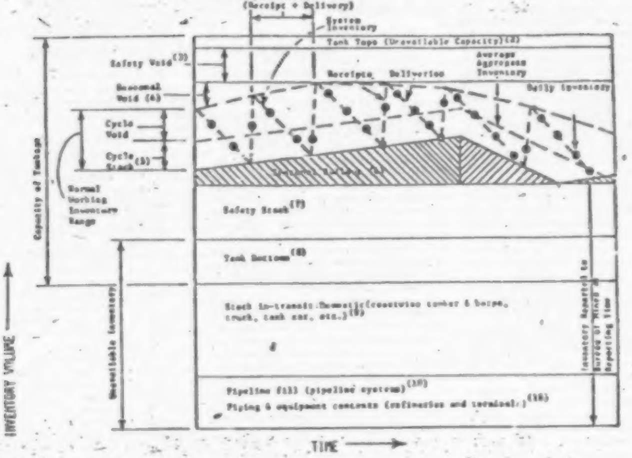
[1] Per Bureau of Mines Mineral Industry Surveys.

[2] Evaluation Research Corporation, *Inventory Management in the Petroleum Industry*, October 1977.

EXHIBIT 1

GENERALIZED PETROLEUM INVENTORY DIAGRAM
FOR SEASONALLY INFLUENCED STOCK


Cycle Period(1)
(Receipt + Delivery)
System Inventory
Tank Tops (Unavailable Capacity)(2)
Safety Void(3)
Average Aggregate Inventory
Receipts
Deliveries
Daily Inventory
Seasonal Void (4)
Cycle Void
Cycle Stock(5)
Normal Working Inventory Range
Capacity of Tankage
Safety Stock(7)
Tank Bottoms(8)
Stock in-transit: Domestic (coastwise tanker & barge, truck, tank car, etc.)(9)
Inventory Reported to Bureau of Mines at Reporting Time
Unavailable Inventory
Pipeline fill (pipeline systems)(10)
Piping & equipment contents (refineries and terminals)(10)
INVENTORY VOLUME
TIME

NOTES/DEFINITIONS

1. Cycle Period = Receipt and delivery cycle time period - function of transportation mode (e.g., barge, tanker, pipeline).
2. Tank Tops = To allow for thermal expansion and safety margin against spillage.
3. Safety Void = To allow for early resupply or delays in transfers from tankage.
4. Seasonal Void = To provide room to hold seasonal buildup.
5. Cycle Stock = Inventory held as a result of the interaction between receipt and delivery patterns.
6. Seasonal Buildup = To accumulate the product which exceeds resupply capability during the peak demand period.
7. Safety Stock = To allow for delays in receipts, larger than anticipated demand, etc.
8. Tank Bottoms = Cannot be withdrawn from tankage under normal operating conditions.
9. In-transit = Resupply stock in custody of shippers.
10. Pipe & Equipment Fill = To assure continuous processing and/or handling.

As shown above, only part of the stocks are available. Equipment and pipeline fill and tank bottoms are not normally available. Also, over a period of a year the seasonal inventory will change, particularly for products such as heating oil and gasoline. Seasonal stocking of petroleum products changes significantly, however, the total stock of all crude and products changes less significantly due to season changes. From June 1976 through May 1977 total oil stocks fluctuated by about 153 million barrels and as that change occurred between October and February, it can probably be assumed that this was in part a seasonal change over the heating season. (However, since the winter of 1976-77 was abnormally cold, not all this difference can be assigned to the seasonal inventory.)

The petroleum operating inventory was stated by the earlier referenced SPRO report to be made up of the cycle stock and safety stock. These two components of the total stock are assumed to make up the oil industry's operating inventory and are estimated to be about 600 million barrels.

If, in fact, the oil industry's safety stock is part of its operating inventory, the effect of shortages could be felt very soon after the beginning of an embargo were it not for the practice in the oil industry of operators borrowing and lending to each other. It is this cooperative practice that allows safety stocks to be part of operating inventory. Nonetheless, if there were an embargo, spot shortages could probably begin occurring very soon in particular geographic areas, while other areas might even have surpluses. However, as the embargo continued, spot shortages would become more and more common until the safety and cycle inventories were completely depleted.

While spot shortages would probably be felt early, they would probably not become a general problem until the 230 million barrel safety reserve was depleted.

On the issue of stock drawdown the experience of the 1973-74 embargo is interesting. That embargo lasted from October 18, 1973 to March 18, 1974—five months.

A review of Bureau of Mines data from 1972 to 1978 on petroleum stocks suggests that during the year (September 1973 through August 1974) that contained the 1973-74 oil embargo, aggregate petroleum stocks fluctuated less than they did during the same September to August period in 1972-73 and 1976-77. In fact, aggregate petroleum stocks were drawn down nearly three times more from October 1972 to March 1973 (231 million barrels) than they were during the October 1973 to March 1974 embargo (88 million barrels). At the aggregate level stocks were not used abnormally during the 1973-74 embargo and, in fact, were used less than they often have been during "normal" (non-embargo) times. The availability of stocks appears to have played no important role in mitigating the effects of the 1973-74 embargo.

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SEPTEMBER 11, 1978

Memorandum for Robert Mundheim, Department of Treasury

From: Charles L. Schultze
Subject: Oil Import Investigation Under Section 232(b) of The Trade Expansion Act of 1962 as Amended

We have examined the relation between U.S. imports of petroleum and petroleum products and U.S. national security pursuant to your investigation under Section 232(b) of The Trade Expansion Act of 1962 as amended, 19 U.S.C. 1962(b). We find that the current level of imports significantly impairs our economic welfare and thereby threatens our national security in two ways:

(1) Interruptions in our oil supply comparable to the embargo of 1973-74 are still possible and would impose serious economic losses if they occur.

(2) Even in the absence of interruptions of supply, continued high levels of U.S. imports threaten to induce substantial increases in the world price of oil in the 1980s exposing the United States to the risk of severe economic harm in the future.

These dangers can be minimized without causing severe economic dislocation only by measures which promise to reduce the dependence of the United States on foreign sources of oil.

The U.S. economy has become steadily more dependent on oil imports over time. In 1960, imports satisfied 19 percent of total petroleum product consumption. By 1973, that fraction had grown to 36 percent. In 1977, it stood at 47 percent. In the absence of effective actions to hold down the level of oil imports, this fraction could rise further in the years to come.

Such high oil import levels have made, and continue to make, the United States vulnerable to interruptions in supply. This vulnerability was dramatically demonstrated by the 5-month Arab oil embargo of 1973-74. The economic impacts of that embargo and the oil price rise that accompanied it have been intensively studied by researchers both within and outside the government. Estimates of those effects are shown below. We have carefully reviewed these studies and find that the estimates span the probable range of actual effects on the economy.

	Average percent reduction in real GNP, 1974
Perry (in Edward R. Fried and Charles L. Schultze, eds., *Higher Oil Prices and the World Economy* (1975), pp. 96-97	
Michigan model (percent)	-1.6
Federal Reserve Board model (percent)	-2.0
DRI (*DRI November 1975 Review*) (percent)	-2.3

The range of percentage GNP loss (1.6-2.3 percent) implies an increase in the 1974 unemployment rate of between 0.5 percent and 0.8 percent (400,000-730,000 jobs). The oil price increase is estimated to have increased the level of prices by 1.3 percent-2.9 percent in 1974—accounting, therefore, for one-third to one-half of the increase in inflation that year. These are extremely serious economic effects by any standard of comparison.

A repeat of the 1973-74 embargo could have even more disruptive effects today. U.S. dependence on oil exports from Arab members of OPEC (OAPEC) has grown. In 1973, OAPEC supplied 22 percent of U.S. oil imports, directly or indirectly through foreign refiners. By 1977, that fraction had risen to over 40 percent.

On the other hand, after 1973, an international oil sharing program was formed under the auspices of the International Energy Agency. The program is designed to distribute any shortfall resulting from an embargo equitably among the IEA members and thereby reduce the incentive of individual nations to bid up world oil prices unnecessarily. Whether the program would actually succeed in this endeavor is not certain.

We have estimated the economic impacts that could be expected if another embargo were to occur in the future. Specifically, we have investigated the effects of a 6-month embargo starting on January 1, 1980. To parallel the 1973-74 experience, we have assumed a 25 percent cutback of OAPEC production and applied the IEA oil-sharing formula—assuming it is fully effective—to determine a net cutback to the United States (2.1 million barrels/day). Because the strategic oil reserve will contain only a small fraction of its eventual size by that time, we have assumed that no part of the oil cutback is offset through distribution of oil held in the reserve.

Since the economic impacts are highly sensitive to a number of macroeconomic variables, we specified an "optimistic" and a "pessimistic" case to generate a plausible range of impacts. *The optimistic case represents the absolute minimum set of impacts that we can reasonably forsee from an* *embargo of this size and duration.* It assumes an expansive monetary policy, no change in business or consumer confidence, a relatively large world demand response to changes in the world price of oil (a price elasticity of demand of −0.2), and, at the end of the embargo, a return of world oil prices to pre-embargo levels.

The pessimistic case represents a set of maximum impacts—it assumes a replication of the tight monetary policy which occurred during the 1973-74 embargo, a substantial loss in business and consumer confidence (like the 1973-74 experience), a relatively inelastic demand for world oil (elasticity of −0.1) and a permanent 20 percent increase in the world oil price after the embargo. Each case assumes that a domestic oil allocation program and price controls are in place as in 1973-74 and that a portion of the cutback is offset by reductions in privately-held oil stockpiles and industrial conversions to coal and natural gas.

The impact estimate for each case are given below:

	Optimistic	Pessimistic
Real GNP:		
Percent change in 1980	−0.8	−3.5
Percent change in 1981	−1.9	−7.0
Cumulative dollar loss through 1984 (billions of 1978 dollars)	$90	$410
Labor Market Effects:		
Change in unemployment rate, 1980	0.3	0.8
Change in unemployment rate, 1981	0.6	3.0
Change in unemployed, 1980	300,000	900,000
Change in unemployed, 1981	560,000	3,000,000
Change in employment rate, 1980	−250,000	−1,100,000
Change in employment rate, 1981	−625,000	−4,200,000
Inflation:		
Percent change in consumer price index (CPI), 1980	1.0	
Percent change in CPI, 1981	1.0	

In both cases, the effects grow over time because of the lagged responses in the economy to both the shortfall and and loss in domestic purchasing power induced by the rise in the world oil price during the period of the embargo. Though the estimated range of impacts is wide, even the favorable impacts are nevertheless quite serious. Any event which could alone induce an increase in unemployment of at least 750,000 persons in two years poses serious hardships. Moreover, the fabric of our economy could be threatened if the pessimistic case of nearly 3 million in additional unemployment were realized.

The impacts of any future supply interruption would, as in the case of the 1973-74 experience, be felt disproportionately in different regions and industries. The effects would be particularly severe in the northwestern and northeastern parts of the country where over three-fourths of all crude petroleum demand is met from imports.

Because petroleum products are of critical importance in virtually every major industry, the industrial effects would be spread more evenly. So long as consumption in industry can be maintained in an embargo period by reducing available inventories and conservation in other sectors, production and employment impacts can be alleviated. The 1973-74 experience, however, indicates that this period of protection is short. Furthermore, the agricultural, construction, chemicals, and transportation sectors are especially vulnerable because of their far greater than average dependence on petroleum and their inability to substitute other sources of energy for petroleum. Finally, restrictions of activity in the transportation industry, in particular, affect all other industries almost immediately.

The supply of petroleum is crucial to the overall strength of the economy beyond its effects on needed industrial inputs. Roughly one-third of all petroleum is consumed by households, of which nearly three-fourths is used by gasoline. A major conservation effort directed at household gasoline use to enhance industrial supplies of petroleum would directly affect demand for new cars, recreational goods, and tourist services. The 1973-74 oil embargo was largely responsible for the 10 percent decline in auto sales that coincided with the embargo and which precipitated large employment declines in related industries. Similar effects could be expected in the event of another supply interruption of comparable size.

Economic Dangers Other Than Supply Interruptions. Even in the absence of any risks of supply interruptions, continued growth in the level of U.S. oil imports poses severe dangers to our economic health. Combined with expected increases in import demands by other nations, growth in U.S. oil imports could strain available world supplies sometime during the 1980s. The resulting increases in the price of world oil which could result could have substantial economic impacts. At the current level of imports, each $1.00 increase in the real price of world oil increases U.S. oil costs by $4.5 billion (in 1978 dollars) and domestic inflation by 0.2 percent. The increase in the balance of trade deficit, adjusted for a partial offsetting increase in U.S. exports to OPEC, is estimated at $3.2 billion. By way of comparison, the U.S. balance of trade deficit in 1977 was $31 billion.

Even a modest rise in the real price of world oil, therefore, could have a significant economic impact. The outflow of dollars would reduce domestic purchasing power, force a deterioration in the value of the dollar, and thereby increase domestic inflation (above and beyond the direct effect caused by the rise in world oil prices). The presence of these events would severely hinder the ability of fiscal and monetary authorities to achieve both high levels of employment and price stability. In particular, either a significant decline in employment or increase in the inflation rate endured over a long period of time could upset our social fabric and therby threaten our national security.

Based on our understanding of the law and the evidence as we have examined it, we find that the importation of petroleum at current levels threatens the national security of the United States.

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U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR,
Washington, D.C., February 12, 1979.

MR. ROBERT F. MUNDHEIM,
General Counsel of the Treasury,
Washington, D.C.

DEAR MR. MUNDHEIM: This letter is in response to yours of February 6, 1979. As asked in your letter, we have prepared a revised report on the availability of energy resources from Federal lands. This report is attached. We defer to the views of other agencies on whether the level of imports of petroleum and petroleum products into the United States is such as to threaten national defense or the economy.

Our report indicates that new energy production from Federal lands could not offset an interruption of imported supplies of oil. Oil and coal resources on Federal lands constitute an important source of energy for the future, but the magnitude of these resources is not such that they could fully replace currently imported supplies of oil. Further, our short term ability to increase production of energy resources from Federal lands is limited. Increased diligence recruitment on lessees of Federal oil and coal resources can produce only marginal increases in production. New leasing could be a more significant source of new energy, but the time period between leasing and production is a minimum of 1-2 years for oil and 5 years for coal.

Sincerely yours,

LEO KRULITZ,
Solicitor.

Enclosure.

DEPARTMENT OF TREASURY, SECTION (232(b)) INVESTIGATION

OIL

Production of oil from the public lands¹ has declined in recent years. In 1950, 103.1 million barrels of oil were produced. This figure rose steadily each year, reaching 618.5 million barrels in 1971. Thereafter production began to decline. Geological Survey figures show production of 489.8 million barrels in 1976. Fiscal Year 1978 figures were 477 million barrels. We believe that this figure will continue to decline although the decline should not be so sharp in the near future due to the effects of the Department's program to enforce diligence requirements. Production from public lands as related to total domestic production, while relatively steady, has nevertheless shown a decline from approximately 18.2% in 1972 to 17.5% in 1976 and 16.3% in FY 1978. This decline is attributable in part to the lessening of production on the outer continental shelf (OCS) which was 11.9% of total domestic production in 1972, 10.8% in 1976 and 9.9% in FY 1978.

Currently, the Department is engaged in enforcing more rigorously than in the past the requirement contained in our leases that operators diligently pursue production. We believe that this is, for the short term, increasing production in some areas; however, the increase is not significant enough to reverse the general decline. It is possible that more production could be generated by issuing regulations (in cooperation with the Department of Energy) providing for some greater diligence and even stricter enforcement. But, given the size of Federal oil resources relative to total U.S. resources, we do not believe that this could result in a substantial increase in over-all domestic production.

Estimates of the demonstrated and inferred oil reserves in the United States are about 62 billion barrels. The range of estimates for undiscoverd recoverable resources is 50-127 billion barrels.² OCS resources constitute a major part of the estimated resources, disproportionate to its current share of U.S. production. We believe that the public lands (onshore and offshore) contain relatively great possibilities for significant new oil production. Nevertheless, even assuming acceleration so that more oil is recovered from the OCS, we believe domestic production will still not match consumption.

There is one major problem with forecasting significant increases in production from any source—timing. The Geological Survey has estimated that the time from lease sale to initial production will range from 4 to 11 years and from sale to peak productions, 7 to 14 years. These figures do not include the time from selection of general areas for lease through a sale, which would be a minimum of 1.5 years barring delays caused by judicial challenges. In some areas the time from lease sale to initial production may be as short as 1-2 years. This, of course, would lessen the time to peak production.

COAL

Consideration of oil resources should include information relative to coal since coal in some cases may be used as a substitute for oil.

In recent years, coal production on Federal lands has been increasing. From 950-69, production varied between 5 to 10 million tons annually. This number rose to 18.9 million tons in FY 1972, to 43.8 in FY 1975 and 78.8 in FY 1978. The Federal share of total domestic production for recent years has increased from 3.2% in 1972 to 11.0% in FY 1978.³

In June, 1976, the Department adopted regulations applying new diligence requirements to Federal coal leases. In August, 1976, Congress enacted P.L. 94-377, which contains a statutory diligence requirement for new Federal coal leases. These diligence requirements have promoted more timely development of coal resources under leasing. The effect of diligence requirements is necessarily limited by physical constraints, however. Development of a coal mine after issuance of a lease is estimated to require from 5 to 7 years for initial production.

Demonstrated total U.S. coal reserves are approximately 438 billion short tons, 40% of which are located on or under Federal lands. It is estimated that, of this total, the coal that is actually recoverable is in the range of 219 to 260 billion tons. Assuming that U.S. consumption will reach 1 billion tons by 1985, the Federal contribution will increase to about [illegible]%.

With additional leases these projections of potential future coal production from Federal lands would increase by 50%. At present, however, the Department is precluded by an injunction in *National Resources Defense Council v. Hughes*, No. 75-1769 (D.C.C. Sept. 27, 1977) from issuing new leases until completion of a programmatic environmental impact statement. This statement is scheduled to be completed by April 30, 1979.

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¹Includes public lands, acquired lands, OCS lands, military lands and Indian lands.

²U.S. Geological Survey Circular 725 (1975).

³Federal leases accounted for 58.8 million tons, or 8% of domestic production, while Indian leases contributed 20 million tons, or 3%.

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U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, April 24, 1978.

Honorable ROBERT MUNDHEIM,
General Counsel,
U.S. Department of Treasury,
Washington, D.C. 20220.

DEAR MR. MUNDHEIM: This is in response to your inquiry regarding the investigation of oil imports under Section 232B of the Trade Expansion Act of 1962. Enclosed is an analysis of the 1973-74 oil embargo and its effects on employment. This examines some of the direct effects of the 1973-74 interruption. Also, we have prepared an examination of the likely current effects of an interruption of imported oil supplies on employment.

We will send you shortly a discussion of some of the policy alternatives available at this time.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Enclosures.

EFFECT OF DISRUPTION OF OIL IMPORTS

EFFECT OF 1973/74 OIL EMBARGO UPON EMPLOYMENT

Between November, 1973 and March, 1974 the following changes in employment, as measured by seasonally adjusted establishment payroll data, occurred (more details are available in articles attached):

- The net direct job loss owing to energy shortages during the period was estimated between 150,000 and 225,000 or .2 to .3 percent of all nonagricultural jobs according to a special tabulation of the regular payroll reports. Direct effects are those related to an inability of an establishment to obtain sufficient fuels or electrical energy to provide power for its operation or sufficient petroleum-based products for its own use or sale.
- Some industries expected to experience direct effects (insufficient fuels) of an oil shortage posted the following job losses during the four month period according to the regularly collected payroll reports: gasoline service stations (64,000 jobs); airline transportation (after accounting for the impact of a strike, about 15,000 jobs); laundries and dry cleaning (9,000 jobs); and special trade contractors (9,000 jobs).

On the other hand, some industries likely to experience direct effects of an oil shortage posted job increases: electric, gas, and sanitary services (22,000 jobs); heavy construction contractors (20,000 jobs); and general building contractors (13,000 jobs). The electric services industry reflected numerous conflicting factors such as the lack of petroleum to run its generators but the increased demand for electricity.

Some industries likely to experience indirect effects of an oil shortage posted the following job losses according to regularly collected payroll reports: motor vehicles and equipment (140,000 jobs); motor vehicle dealers, retail (53,000 jobs); hotels and other lodging places (27,000 jobs); and metal stampings (17,000 jobs). These indirect effects reflect insufficient demand for an industry's products arising from their potential customer's actual or anticipated inability to obtain fuel. Some sectors such as hotels and motels were related to the restricted auto travel during the period.

As measured by seasonally adjusted household data, the following unemployment changes occurred. These changes in unemployment during the four month period reflect not only the impact of the Arab oil embargo but all other factors in the economy whether oil related or other:

- During the 4-months, unemployment increased by 235,000 or .2 percentage points. This increase in unemployment occurred almost exclusively among job losers, 242,000, of whom 157,000 were on layoff and 85,000 were not on layoff. The unemployed persons who were entering for the first time or reentering the labor force increased 36,000; unemployed persons who left their last job declined 66,000.
- During the 4-months, unemployment among nonfarm occupation rose 52,000 for white collar workers, 111,000 for blue collar workers and 11,000 for service workers. Unemployment by farm occupations declined 1,000. The remaining unemployed persons had no previous work experience.

These data illustrate the employment and unemployment changes occurring during late 1973 and early 1974. Do these data reflect only the embargo impact or do they signal the beginning of the 1974-75 economic recession?

- The 1973/74 employment decline occurred in only 47 percent of all private industries. During 1960 and 1970 recessions, employment declines over a 4-month period occurred in about 70 percent of all industries.
- The total employment declines in all the private nonagricultural industries was only .1 percent during 1973-74 compared to an .9 percent decline during the 1960 and 1970 recession.
- The duration of employment declines by industry during 1973-74 period was less than during two earlier recessions. Only 24 percent of all private industries experienced 6-month declines during 1973-74 while 41 percent and 58 percent experienced 6-month declines respectively during the 1960 and 1970 recessions.

These few statistics suggest the 1973-74 problems were related to energy, not the beginning of a business cycle. The problems were limited to fewer industries and of smaller magnitude than might be expected during a business cycle. Further, these changes particularly affected the energy related industries. However, November, 1973 has been designated as the beginning of the 1974-75 recession.

EFFECT OF INTERRUPTION OF OIL SUPPLIES

These data illustrate the employment impact of the 1973-74 oil disruption. However because of numerous changes since 1973, the impacts might be different in 1978. For example, the oil embargo and higher oil prices were a surprise in 1973; the higher oil prices are well known in 1978 and, perhaps, all concerned might be better prepared. As the recent coal strike illustrates, what seems like a large change in the supply of a good can have a small impact on other industries over a relatively short period. Also, a strategic petroleum reserve is being prepared.

Still, the best estimate of the effects of an oil interruption in 1978 remains the 1973 experience. Thus, an interruption in U.S. oil supply of the same magnitude and same duration as the 1973-74 embargo would likely impact upon 400,000-575,000 jobs or 150,000-225,000 direct jobs and 250,000-350,000 indirect jobs. Further, unless there were important differences in how the burden was shared among industrial, households or automotive users the industrial and occupational impact would very likely be similar to that which occurred in 1973-74. If the magnitude and duration of an oil interruption were greater, i.e. doubled, these employment effects could easily double, 300,000-450,000 direct jobs and 500,000-700,000 indirect jobs would be affected.

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U.S. DEPARTMENT OF COMMERCE,

WASHINGTON, D.C.,
September 14, 1978.

Mr. ROBERT H. MUNDHEIM,
General Counsel,
Department of the Treasury,
Washington, D.C.

DEAR MR. MUNDHEIM: This is in reply to your letter of April 3 requesting the Department's comments on the impact of petroleum and petroleum products imports on the national security of the United States. We understand that you are conducting an investigation of this matter under authority of Section 232(b) of the Trade Expansion Act of 1962 as amended, 19 U.S.C. 1862(b).

Increasing Dependency on Foreign Supply

Any assessment of the national security implications of our oil imports has to start from the fact that within the last five years the Nation has become increasingly dependent upon foreign supply. During 1972, the last full year before the Arab embargo, oil imports into the United States amounted to 4.7 million b/d, or 29 percent of domestic consumption. In 1977, oil imports reached 8.7 million b/d, or 47 percent of domestic consumption. A variety of initiatives now underway may reverse this trend, but, under most assumptions, it appears safe to conclude that our foreign dependency will exceed 40 percent over the next few years.

This fact tends to overwhelm all other considerations. It emphasizes the increased vulnerability of the U.S. economy to interruptions of foreign supply, even if the interruptions were not to extend to all foreign sources.

In general, it can be said that in the last five years our economy has been in a race between building increasing adaptability to supply interruptions (a response to the lessons of the 1973/74 embargo) and accepting increased dependency on foreign supply. This implies that the effects of a future interruption will almost certainly differ from those experienced in 1973/74. This also implies, however, that, for whatever reasons, the Nation now stands more exposed to the possibility of interruption than heretofore. In short, the risks of interruption seem to have outrun whatever we might hope for in the way of slightly diminished penalities of interruption.

In response to your specific questions, we submit the following:

(1) *Damage to the Economy from 1973/74 Arab Oil Embargo.* The effects of the 1973/74 embargo were minimized by forceful Federal responses which shifted the impact of reduced supply onto final demands for petroleum products and then limited consumers access to those products, notably gasoline. As a result, during the embargo period, inventories of petroleum products mounted rather than declined, except for a 16 percent dip in residual fuel oil.

On the supply side of the economy, sufficient shortage arose to impact significantly on the petrochemical industry. On the demand side of the economy, the uncertainty associated with limited access to gasoline and other transportation fuels led to a significant drop in automobile sales and services associated with automobile and air travel. This uncertainty was sufficient to have an adverse impact in the consumer durable and housing construction sectors as well.

(2) *Economic Impact of an Oil Supply Interruption Now or in the Near Further.* We assumed for purposes of this review a crude oil impact of about 4 mm b/d occurring in the late 1970's or early 1980's and lasting at least six months beyond a significant drawdown of domestic inventories and stored reserves. We postulated final demand reductions comparable to those which occurred in 1973/74 and passed them through models to check for their consistency with a loss of about 4 mm b/d of imported crude oil. We then modeled the results and found a range of impacts in the order of 1.1 to 1.5 million additional unemployed and a 2 to 3.6 percent decline of 1977 GNP, or $40 to $65 billion (1977 dollars).

(3) *Sectoral Impacts.* We find that a 4 mm b/d reduction in crude oil imports will impact heavily first on the refining industry, most certainly leading to some refinery closings. In turn, this impact will increase the shortage in terms of refined products somewhat above 4 mm b/d, possibly as high as 6 mm b/d (some of which may be offset by an increase of product imports). The next impact will be on the petrochemical industry, probably in the order of a $800 million reduction in shipment, with a decrease in employment of 80,000.

Other sectors will be impacted by decreases in demand as during the 1973/74 embargo, but on a larger scale.

(4) *Overall Judgment.* In our judgment, present levels of oil imports do threaten to impair the national security. Our postulated 4 mm b/d reduction is approximately 50 percent of what our oil imports are expected to be in the early 1980's—4 mm b/d would be equivalent to about 20 percent of domestic consumption. Impacts in the order or $40 to $65 billion decline in GNP, with very adverse impacts on key industries (petroleum refining, petrochemical and automotive), pose such a threat. Of course, given a predicted foreign dependency in the 40-50 percent range, a total cutoff of foreign supply would lead to adverse impacts well beyond those identified above. Still, in our judgment, a 20 percent reduction is more plausible, and, as demonstrated it would suffice to harm the economy.

We appreciate the opportunity to work with you on this investigation. Following the investigation, as you work toward policy and procedural alternatives, we hope we may continue to work closely with you.

Sincerely,

JERRY J. JASINOWSKI,
Assistant Secretary For Policy.

[FR Doc. 79-9047 Filed 3-28-79; 8:45 am]

THE PRESIDENT'S OIL IMPORT FEE:

A Preliminary Analysis

The Congress of the United States
Congressional Budget Office

March 1980

BACKGROUND

President Carter has imposed fees of $4.62 per barrel on imported crude oil and $4.20 per barrel on imported gasoline, effective March 15. The fee on imported gasoline equals 10 cents per gallon, roughly equivalent to the crude oil import fee if it were passed entirely on to gasoline. 1/ Sixty days after the imposition, on May 15, the fees will raise the controlled ceiling on the wholesale price of a gallon of gasoline by approximately 10 cents. This lag results from using the entitlements mechanism, described below, which normally requires two months to reflect a change in petroleum prices. Retail prices should reflect the increase shortly thereafter.

Presidential authority to impose the import fee is derived from the Trade Expansion Act of 1962, which gives the President power to adjust the level of imports of any product bearing on national security. Such an adjustment can be made through the imposition of either an import fee or a quota. Through the Emergency Petroleum Allocation Act, which permits the President to regulate the petroleum market by setting entitlement fees, he is enabled to shift the crude oil fee onto gasoline.

Although complete details on the Administration's plan are not yet available, it appears to be designed to work as follows: Importers of crude oil pay the fee to the government and are reimbursed by the refiners of gasoline, who in turn are reimbursed by consumers through higher gasoline prices. The reimbursement of importers by refiners works through a mechanism similar to, but separate from, the present entitlement system. Refiners will be required to purchase an entitlement for each barrel of gasoline produced (whether from domestic or imported oil). The entitlements will be purchased from crude oil importers, who will thus be getting their money back. The refiners will in turn increase their prices to consumers. In short, consumers pay refiners, who pay importers, who pay the federal government. Because the importers are thus fully compensated, the price of domestic crude oil should not rise.

One possible difficulty in the Administration's plan is that the President's authority to set entitlements, though not to set import fees, may expire on September 30, 1981. (The Administration argues that the new

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1/ Since more gasoline is refined than crude oil is imported (1.1 times, according to Administration estimates), gasoline refiners have only to pay $4.20 per barrel or 10 cents per gallon to reimburse importers the $4.62 fee—that is, $4.20 x 1.1 = $4.62.

separate entitlements program is part of the administrative structure of the import fee, allowable under the Trade Expansion Act, and, as such, does not expire with the other entitlements program.) If his authority were to lapse at that time and the import fees were extended past that date, he would no longer be able to shift the entire oil import fee onto gasoline. The price of domestic crude oil (and subsequently all petroleum products) would then rise to match the world price plus the import fee. These events should not occur, however, since the President has announced his intention of asking the Congress to impose an ad valorem tax on gasoline and diesel fuel. Initially set at 14 cents per gallon (the present 4 cents per gallon federal excise tax would be repealed), the amount of the tax would rise with the price of fuel. The proposed 14 cents per gallon tax would be roughly equivalent to the sum of the 10 cents per gallon import fee and the present 4 cents per gallon tax.

THE DEMAND FOR GASOLINE

If the oil and gasoline import fees are passed on solely to users of gasoline, the price of gasoline will rise by 9.7 cents per gallon in 1980. This price increase will cause a small reduction in the consumption of gasoline. Table 1 presents CBO's projection of motor fuel consumption after the tax increase, and the estimated petroleum savings attributable to the tax. CBO's estimates are based on the following assumption: that the import fee and entitlement program will continue in effect until the end of fiscal year 1981, at which time the President's proposed fuel tax will become effective. The savings are estimated at about 80,000 barrels of oil a day for 1980, increasing to 100,000 barrels a day in 1985.

The elasticity of fuel demand by automobiles and light trucks is assumed to be -0.150 in the short run and -0.200 in the long run. For trucks Class II and larger, the elasticities are -0.075 and -0.100. 2/ The long-run elasticity is assumed to take effect in 1982 and early 1983. The Administration estimates petroleum savings of 100,000 barrels per day in 1980 and 250,000 barrels a day in 1983, as compared with the CBO estimates of 80,000 and 90,000 barrels a day. The significantly higher Administration estimate for 1983—and presumably for other later years—appears to result from its assumption of a larger long-term price elasticity. The elasticity

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2/ For further discussion of these elasticities, see Congressional Budget Office, "Preliminary Projections of Fuel Savings and Revenues Associated with Increased Taxes on Motor Fuels," Technical Note (December 1979).

TABLE 1. FORECAST OF FUEL CONSUMPTION AND ESTIMATED SAVINGS FROM IMPORT FEES AND PROPOSED TAX INCREASES (In thousands of barrels per day; by fiscal year)

	1980	1981	1982	1983	1984	1985
Automobiles and Light Trucks	6,180	6,140	6,080	6,020	5,990	5,950
Class II Trucks and Larger a/	1,670	1,730	1,790	1,840	1,910	1,980
Total Consumption	7,850	7,870	7,870	7,860	7,900	7,930
Estimated Fuel Savings Due to the Tax	80	70	75	90	90	100
Increased Tax at Start of Year (cents per gallon) b/	9.7	9.4	10.0	11.5	13.1	14.8
Net Estimated Revenues (billions of current dollars) b/	3.1	10.0	13.4	15.0	16.9	19.2

SOURCE: Congressional Budget Office.

a/ For 1980 and 1981, about one-half of the forecast represents diesel fuel that would not be subject to the import fee.

b/ Excludes existing 4 cents per gallon tax paid into Highway Trust Fund, which is assumed to be renewed in 1985.

estimates used by the Administration may include fuel savings assumed to be achieved through higher standards set by the Energy Policy and Conservation Act (EPCA). Some estimates of gasoline price elasticity, including the estimate of long-term elasticity used by the Administration, are based on studies that ascribe most of the changes in consumption to changes in the price of gasoline. There are other factors that affect gasoline consumption, most notably the EPCA standards for new car fuel economy and concerns by consumers about the availability of fuel. After adjusting for these factors, the elasticity of price alone is relatively small.

REVENUES

The import fees on crude oil and gasoline will generate additional federal revenues of about $3.1 billion in fiscal year 1980 and about $10.0 billion in fiscal year 1981. The revenues for 1980 are affected by the time lag between when they go into effect and actual receipt by the Treasury. In 1982, the proposed 14 cents per gallon tax on gasoline and diesel fuel would generate revenues of about $13.4 billion above the revenues from the existing 4 cents per gallon tax. By the start of 1985, the tax will have increased to almost 19 cents per gallon with revenues of about $19.2 billion above the revenues that would have been collected by the 4 cent tax. This estimate does not include other potential impacts through corporate and personal income taxes.

The ad valorem nature of the proposed tax makes it quite different from the current federal fuel tax, which is on a unit basis. Since the price of fuel is expected to rise faster than inflation, the ad valorem tax would also grow faster than inflation. The projected annual rate of growth of the tax from 1982 to 1985 would exceed 10 percent. While at least 4 cents on each gallon would go to the Highway Trust Fund, this tax would generate an ever-increasing amount of new federal revenues, even though gasoline usage is projected to decline and diesel fuel usage to rise only slightly.

The first-year estimate assumes that the program will work as designed. There may, however, be some administrative and other unforseeable difficulties, often encountered in new programs, that could lower the revenues collected in the first months of the program.

MACROECONOMIC IMPLICATIONS

The gasoline price increase of 9.7 cents per gallon resulting from the oil import fee would have a direct impact on the Consumer Price Index (CPI) of approximately 0.6 percentage point in 1980. In addition, since about 20 percent of gasoline is consumed by businesses, complete passthrough of these increased costs would result in another 0.1 percentage point impact on the CPI. Finally, the feedback of the higher CPI into wage increases which cause further price increases over the following several years would make the total CPI impact add to roughly a full percentage point. These estimates could be changed by any of the following possible circumstances:

- If some of the increased cost of the fee is absorbed by reductions in dealers' margins or refiners' profits, the price impact could be slightly lower.

- If, between now and May 15, inflation in general and gas prices in particular rise more rapidly than anticipated, the impact of the fee on inflation and gasoline consumption will be lower than the levels projected here.)

- If the tax is rebated in the form of reduced Social Security payroll taxes, these increases in the CPI could be offset somewhat.

If the revenues of the oil import fee were used to reduce Social Security payroll taxes, the inflation impact of the fee could be lessened. The actual level of reduction would depend on the specific terms of the rebate proposal. If the revenues were used entirely to reduce both the employers' and employees' share of the payroll taxes equally, then the oil import fee would result in an increase in the CPI of approximately three quarters of a percentage point as opposed to a full percentage point from the fee without a rebate. Such a rebate would not fully offset the effect of the fee on the CPI because most of the rebate would eventually go into increased after tax income, which is not in the CPI, rather than into lower prices, which are.

The impact of the fee and the tax on the automobile industry will be small, but noticeable. Previous research at CBO and elsewhere suggests that the elasticity of demand for cars with respect to the price of gasoline is -0.2. Thus, the 9.7 cents per gallon increase in the price of gasoline could reduce the net demand for automobiles by 1.5 percent or 150,000 units in 1980.

Since the market share of small cars rises with increases in the price of gasoline, the reduction in demand for U.S.-built cars might be somewhat larger than 1.5 percent, reflecting a possible increase in the number of imported automobiles. 3/ If present market trends persist, the oil import fee might result in a decline in the sales of U.S.-manufactured automobiles of 175,000 units in 1980. If U.S. car manufacturers increase their production of small cars, as they have stated they will, this figure would overestimate the decline in U.S. production.

The President stated in his March 14 speech that he wants to hold the revenues from the fees and tax in reserve or use them to reduce the national debt. The Congress, however, will consider a number of alternatives. These include continuing to use part of the existing fuel tax revenues for the Highway Trust Fund, placing the new revenues in the general fund to be spent through the normal authorization and appropriation process, and rolling back payroll taxes. The final decision will, of course, have an impact on the economy as a whole, including the rate of inflation.

Highway Trust Fund

In his proposal for the gasoline and diesel tax, President Carter suggested that the present motor fuels tax be repealed and replaced with at least an equivalent share of the new tax. Coming at a time when outlays from the Highway Trust Fund exceed its annual revenues, suggestions may be made to use this new tax as a way to increase Highway Trust Fund receipts. For example, the present 4 cents per gallon tax could be changed to an ad valorem tax.

General Revenues

The funds raised by the import fees, and later by the new fuel tax, could be allocated to general revenues. This option would have an advantage in terms of budget efficiency and overall planning. Should the Congress decide to use the proceeds to reduce the national debt, this could have an anti-inflationary impact. On the other hand, if the Congress spends the funds, it might add to inflationary pressures.

3/ For further discussion of the elasticity of market shares, see CBO, "Projected Composition of Sales of New Cars," Technical Note (March 1980).

Social Security

Social Security taxes are scheduled to increase by $11.4 billion in calendar year 1981 and by $21.2 billion in 1982. If the new revenues were used to reduce equally the employer and employee shares of the payroll taxes, the cost of labor to employers would be reduced while the after-tax real wages of labor would remain about the same. Such an action might reduce the pressure of inflation on wages and prices, and perhaps stimulate the supply (cost) side of the economy.

DISTRIBUTIONAL IMPACTS

The imposition of the import fees will cost the average family $46 in 1980 and $114 in 1981, in direct and indirect expenditures on gasoline and diesel fuel. (The difference between the two years is due, in the main, to the fact that the fee is being implemented in the middle of 1980). Families in the lowest income quintile would increase their expenditures by $18 in 1980 and $44 in 1981. These increments would represent 0.4 percent and 1 percent of the income of the average family in that lowest quintile. The families in the highest quintile would increase their expenditures by $70 and $176 for those years. Since the price of auto fuel is, as mentioned above, projected to rise more rapidly than prices in general, the tax burden as a percentage of family income should also rise (see Table 2). 4/

Many factors determine the level of gasoline consumption, but in general the absolute level of gasoline consumption rises with income. The percentage of income spent on gasoline consumption declines, however, with increases in income. Therefore, while families with large incomes will be paying more than other families absolutely, their relative burden will be less. Furthermore, families in the lowest quintile who own cars will, if previous expenditure patterns hold, pay a larger share of their income to purchase gasoline than that paid by low-income families in general. Low-income families who own automobiles will thus be the group most severely affected by the higher prices. Like the revenue estimates, these estimates do not include possible effects on corporate and personal income taxes. They also assume a complete passthrough of increased business costs.

4/ For a more complete discussion of the distributional impacts of increased fuel prices, see CBO, The Decontrol of Domestic Oil Prices: An Overview, Background Paper (May 1979).

TABLE 2. PROJECTED DIRECT AND INDIRECT GASOLINE AND DIESEL FUEL EXPENDITURES PER FAMILY RESULTING FROM THE IMPORT FEES AND PROPOSED TAX (In dollars)

	1980		1981		1982	
	Average annual expenditures	Percent of income	Average annual expenditures	Percent of income	Average annual expenditures	Percent of income
All Families	46	0.3	114	0.7	132	0.8
Ranked by Money Income						
Lowest Fifth	18	0.4	44	1.0	52	1.1
Second Fifth	32	0.4	80	0.8	93	0.9
Third Fifth	48	0.3	121	0.7	142	0.8
Fourth Fifth	57	0.3	142	0.6	167	0.6
Highest Fifth	70	0.2	176	0.4	207	0.5

SOURCE: Congressional Budget Office.

CBO estimates that, over the next two and a half years, the burden on families in the lowest income quintile because of the import fees and the projected tax will total $1.8 billion. While part of the tax will be offset thorough cost-of-living increases in Social Security and Supplemental Security Income, not all low-income families receive these indexed transfer payments. While the low-income energy assistance program is primarily designed to ease financial pressures on low-income families from increased home heating and cooling costs, part of this could be used to pay for the increased cost of gasoline. Since most aid would go to persons already receiving transfer payments, other families might be missed.

OPEC RESPONSE

The response of the Organization of Petroleum Exporting Countries (OPEC) to the President's initiative will be determined by political as well as economic considerations. While the OPEC response cannot be predicted, the implications of some possible responses can be indicated:

- The fee would slightly decrease the demand for oil. This might result in a slight lessening in the upward pressure on OPEC oil prices, which would slow the rate of inflation.

- OPEC might react negatively and raise the price of oil. The rate of inflation would then rise, and there would be downward pressure on the economy as whole.

EFFECT ON OTHER PRODUCT PRICES

The fee on imported oil may not be entirely passed through onto the price of gasoline, but there are two reasons to assume that most of it will:

- Supplies of diesel fuel, home heating fuel, and residual oil are currently in surplus, so that it would be difficult to increase their prices.

- The short-term demand for gasoline is generally more inelastic than that for most other petroleum products.

Essentially, the system would require refiners to pay 10 cents a gallon for each gallon of gasoline they sell, whether they import it directly or refine it. While most of this will likely be passed on to gasoline consumers, it is possible that a small amount will come out of refinery margins or be passed on to other petroleum products. This is not likely to happen during the next several months. The demand for these products is quite seasonal, however, and market conditions could change over the next 18 months. To the extent that gasoline prices do not absorb the entire fee, and refiners lower their profit margins, the projected savings of gasoline will be lowered, as will the inflationary impact.

EFFECTS ON GASOHOL

The Administration also proposes to continue to exempt gasohol from the proposed ad valorem tax. Since gasohol is 10 percent alcohol, exempting it from the fuel tax is a subsidy to alcohol producers of ten times the amount of the tax. This proposed exemption would thus create an implicit subsidy of alcohol used for gasohol equivalent to $1.40 a gallon--a dollar a gallon increase over the current federal subsidy. Combined with state gasohol subsidies of as much as 50 or 60 cents a gallon in a number of states, and a gasoline price approaching $1.50, producers of alcohol could recover their costs even if they charged close to $4.00 a gallon. Such a price could encourage significant production of gasohol, with possible important effects on the revenue projections made here and even on the price of food.

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

THE GASOLINE CONSERVATION FEE

(Revised Data)

by
Lawrence Kumins
Analyst
Environment and Natural Resources Policy Division
April 24, 1980
(Revised May 20, 1980)

NOTE ON DATA REVISION

An earlier version of this report issued April 24, 1980 contained a macroeconomic simulation of the conservation fee's effects prepared for CRS by Data Resources, Inc. (DRI) which has subsequently been found to be erroneous. This update corrects these errors with new macroeconomic data presented in a revised Table I (p.15).

DRI was requested to prepare a simulation of the conservation fee effect. Since this had already been included in their March 22, 1980 control solution of the model, our request meant that the model should be re-run with the fee removed. This would provide comparative information on the fee's effect per se. The result of this exercise appeared to show--incorrectly, as it turned out--relatively large, negative economic effects stemming from the fee. A number of people questioned these results, and in attempting to replicate them, it was discovered that DRI had made substantial mistakes in formulating the March control, which we adopted as a base case. This error greatly overstated the fee. When the DRI staff removed the fee effect from the control in preparing the simulation we had requested, the result was a correct model solution, which we then contrasted with an erroneous base case containing fee-related impacts which were much too great. In contrasting the two model solutions, we estimated negative, fee-related economic effects which were greater than they should have been by a factor of two.

THE GASOLINE CONSERVATION FEE

INTRODUCTION

In his March 14, 1980 address to the Nation, the President announced his intention to levy an import license fee on foreign crude oil and foreign refined gasoline under the Trade Expansion Act of 1962. He further indicated his intent to shift the incidence of this fee to gasoline prices. The entitlements program would be utilized to do this. Authority for the entitlement program lies in the Emergency Petroleum Allocation Act (EPAA) as amended, which expires in October 1981.

The mechanics for the President's program were set in place effective March 15, 1980 by an April 2 proclamation. The President's plan envisions the gasoline conservation fee adding 10 cents per gallon of gasoline sold nationally. To accomplish this end, the President set a $4.62/bbl levy on foreign crude oil and a $4.20/bbl fee on imported gasoline as initial measures. The gasoline conservation fee program's goal is to increase pump prices by 10¢/gallon, as precisely as possible, using the entitlements program to shift the fee from foreign crude to gasoline. The import levies will no doubt be adjusted frequently in order to fine tune this indirect mechanism for taxing gasoline via the President's existing authorities and absent new legislation.

SUMMARY

The gasoline conservation fee represents an innovative way for the President to exercise his unilateral authority to impose oil import license fees and to have the impact accrue to gasoline. While appearing complex in nature as well as outcome, several important considerations are discussed in this paper, and some likely outcomes suggested. All outcome projections depend on there not being a supply interruption of oil from the Middle East,-as well as no hoarding in the expectation of such an interruption. Chiefly, the findings are:

* Use of an entitlement-like mechanism to shift the burden of the fee from crude imports to refinery operations will likely operate as the Administration asserts; that is, refiners will pay the oil import levy, being charged for the fee based on their gasoline productions.

* Strong underlying economic forces exist for the fee to be allocated completely to gasoline, because the fee program changes the basic economics of refining gasoline. Similarly, little incentive exists to raise the price of other uncontrolled products in order to pass on any fee related costs not passed along to gasoline. Prices of other products will be determined by supply and demand for those products and will tend toward this regardless of the fee.

* Initially, refiners will attempt to pass the fee to gasoline fully. They may achieve some degree of success here but it may well be short-lived because of record gasoline inventories and very low demand. It is probable that refiners, jobbers, and dealers may absorb significant portions of the fee during 1980 and perhaps early 1981 as well. They may be able to do this because refiner/jobber gross margins (not necessarily profits) have risen 140 percent during the past 15 months and gasoline dealer margins have nearly doubled. Conceivably, both groups could live with reduced margins, although they would do so unhappily.

* One probable reaction to the fee will be increased incentive to readjust gasoline inventories, which were perceived as too high before

the fee was proposed. In doing so, refiners will reduce output not only of gasoline but possibly other products such as heating oil. While other products are now in ample supply as well, this might lead to tightened supplies in 1981 , and possibly higher prices.

By early 1981, refiners should have reduced overhanging inventories to the point that all 10¢ per gallon of the fee will be passed on to gasoline buyers.

* The fee will stimulate negative macroeconomic forces during the 1980-82 period. The Consumer Price Index is estimated to average half of one percent per year higher as a result, with small real GNP losses (0.2%) in both 1981 and 1982. The inflationary impact of the fee on gasoline prices slightly outweighs the counter-inflationary balanced budget effect of increased Treasury revenues of nearly $11 billion per year.

HOW THE GASOLINE CONSERVATION FEE PROGRAM OPERATES

While appearing at first inspection to be unduly cumbersome, the conservation fee mechanism embodies a certain elegant simplicity that is likely to make it at least more effective than critics claim.

The fee will be initially imposed upon crude and gasoline importers of record. The next step is to pass this fee onto gasoline, which is accomplished via the entitlements program. What DOE plans to do here is publish side by side lists of firms, which owe and are owed money. This list will be similar to, but distinct from, the existing entitlement program. Firms paying the import levy directly would be owed money. Refiners manufacturing gasoline would incur a liability equal in toto to the fees paid by the importers. DOE estimates that about

80% of the monies would "net out", which is to say that these obligations to buy (i.e. owe money) and sell (i.e. be owed money) entitlements would be obligations of the same firm. Thus, the transfer of funds among firms would be limited to that relatively small portion--20 percent--of the monies which are owed and the liabilities of different companies. Firms owed and owing monies would be able to identify themselves quickly from the list and balance things out with money transfers as needed. In fact, this is exactly what happens under the entitlements program now and it works surprisingly well.

To illustrate how the numbers work out in practice, let us make some assumptions about the $4.62 figure which allows it to be equated to 10¢ per gallon of domestically refined gasoline. If, during a given month, 6.1 mbd of crude oil are imported and are assessed the $4.62 levy, $845 million is collected. If gasoline output at U.S. refineries is 6.7 mbd, and each refiner has a 10¢/gallon ($4.20/bbl) liability to crude importers, exactly $845 million would be paid to importers. Importers would be fully reimbursed by refiners. The full effect of the levy would therefore fall on refiners. Revenues would flow from the consumer to the refiner to the importer and then into the Treasury.

Imports of foreign gasoline would be subject to a 10¢/gal ($4.20/bbl) license fee in order to maintain neutrality between foreign and domestic refining. If imports were not subject to the same levies as domestic refinery production, this would create incentives to import refined gasoline from foreign refineries at the expense of domestic industry. The Proclamation initially sets a $4.20/bbl levy on foreign gasoline.

The numbers in this example work out because they have been "managed", given the 10¢/gallon of gasoline target figure. As the figures have been construed, 6.1 mbd of crude subject to a fee of $4.62/bbl corresponds to 10¢ for each of 281 million gallons (6.7 mbd) of gasoline. If either crude imports or gasoline production were to change in a way which would upset this relationship, DOE would have to readjust the fee in order to maintain the 10¢/gal figure. As a practical consideration, the fee would have to be readjusted frequently.

It should be noted that, if crude imports were 6.1 mbd and gasoline imports remain at the historic level of about 200,000 b/d, $10.3 billion would be raised by the crude oil fee annually and an additional $0.3 billion by the gasoline import levy. All told, about $10.6 billion would be raised by the Treasury at an annualized rate based on these figures.

HOW THE CONSERVATION FEE INTERACTS WITH THE MARKETPLACE

There are a number of considerations which should be examined regarding the incidence of the conservation fee. These matters include (a) whether refiners will pass or can pass the full fee on to gasoline consumers at the pump, (b) whether refiners will allocate part of the fee to other products like jet fuel, home heating oil and diesel fuel, or (c) whether refiners will be unable to pass on all fee related costs (and be forced to absorb part of the fee) . As debate evolves over measures in both Houses which would override the President's Proclamation, these points--which really frame the question of who will bear the fee burden--are now the focus of fairly intense discussion in the Congress.

Market forces and the conservation fee

The fee is being imposed at a time when gasoline inventories stand at record levels--in the 280 million bbl range and anticipated gasoline demand is likely to be in the same area as it was five years go (in

1975)--6.8 mbd, down from 1978's all time high of 7.4 mbd and 1970's 7.0 mbd consumption. These high inventories relative to declining demand point toward what should be a relatively soft market. Perhaps growing concern regarding the stability of mid-East supplies causes the market to be as firm as it is. This concern may have supported a rise in the essentially uncontrolled domestic spot market for gasoline. The spot market fully discounted the fee, which is to say that between March 15 and about April 15, the spot market--which reflects changes in anticipated market conditions early on--had the strength to rise by the full 10¢/gal fee (plus a few cents, in fact).

The high stock/low demand relationship and the spot market give conflicting signals as to what might happen to gasoline prices under the fee. However, gasoline dealer margins--which averaged 6.5¢/gal in January 1979--have declined from about 13.7¢/gal in August 1979 to 12.2¢/gal in April 1980. The present DOE dealer margin ceiling is 16.1¢--well above what the market will actually accept. During the past month retail margins have declined by $.007 per gallon alone, according to the Lundberg Letter. This is a strong indicator of a gasoline market that has cleared, or balanced, at a price lower than the ceiling price allowed under DOE regulations. This trend has not as yet been reflected at the wholesale level. The staff at the Lundberg Survey has indicated to CRS, however, that they have begun to see the early signs of wholesale price erosion, as well.

Certainly refiner/jobber margins--defined here as the difference between the wholesale price dealers pay for gasoline and crude cost (and not to be construed as profits)--have risen sharply since January 1979. At that time, the Lundberg Survey showed nationwide pump prices were 65.3¢/gal and refiner/jobber margins were 14.5¢/gal. In March 1980, nationwide pump prices average 122.7¢/gal (of which 12.7¢ was dealer margin and 14.2¢ taxes). Subtracting average crude cost estimated at 61¢/gal a refiner/jobber margin of 35¢ is implied. This is fully 140 percent above its January 1979 level and suggests that perhaps refiners and jobbers are in a position to absorb some--if not all--of the conservation fee.

Other products, particularly middle distillates, jet fuel and residual fuel—are also in abundant supply with inventories above DOE's projected normal stock range. They should also be viewed in the context of reduced 1980 demand, a frame of reference which makes these inventories seem excessive for their season. This is especially true of distillates, whore inventories exceed 175 million bbls, something of a record for the end of a heating season. Finally, all of these products are currently unregulated as to price, which practically speaking means that the market for them has cleared almost by definition.

All of this discussion seems to point toward a weak market perhaps supported by fear of future crude supply problems. But given the high cost of carrying stocks, and the fact that these inventories can only serve to depress prices in the near term, reduced refinery operations to correct this imbalance seem to be a natural reaction. Indeed this is happening now. Refinery runs of 13.8 mbd are currently 78 percent of capacity and future decline to the 13.2-13.4 mbd level are forecast. Even at these levels of refinery utilization, gasoline stocks will remain high throughout the driving season and distillate inventories should begin to build toward Autumn. Barring unpredicted demand increases, refinery runs at 75% of capacity--which is an extremely low utilization rate--during the next 3-4 months would still result in high inventories of gasoline and distillate and would presumably depress prices to levels below which they might otherwise be. It should be noted that this does not mean that product prices will decline. Indeed, they may well rise as domestic crude is decontrolled and rises to the world price. This will mean an $8 per bbl rise in average refiner crude cost between now and October 1981 if world prices do not rise (and they likely will).

What then does this discussion indicate as far as the incidence of the conservation fee is concerned? First, it should be noted that predictions of this nature are hard to make as well as being risky, because countervailing forces are at work. Assuming no supply disruption-- and no greater reason to fear a supply disruption than at present 1/-- this scenario appears most likely.

Refiners will attempt to raise gasoline prices and pass the fee along to gasoline consumers only. Other product prices will remain unaffected because they will be largely successful in doing this at least initially. After a few months or less, high stock levels will drive pump prices back down. Dealer margins will erode further, as will refiner/jobber margins. Refiners will react to this by decreasing runs-- perhaps to record low levels-- and reduce inventories. By early 1981--probably by the onset of the 1981 driving season--inventories should be equilibrated to demand. By this time, all 10¢ should be reflected at the pumps, over and above all other price rises (which are not fee related).

1/ This could turn out to be an heroic assumption.

While this is the likely outcome over a relatively long time frame and under stable market conditions, the history of the entitlements program is characterized by a number of perhaps unintended idiosyncrasies which have affected oil markets in ways which have not been wholey desirable. These experiences should serve to alert those concerned with the conservation fee that there might be some aspects of the program which could have undesirable side effects that have not yet been thought out and will not become apparent until the fee is in place and fully effective.

One possible side effect is highlighted by this example:

Assume that the 1980-1981 heating season arrives early with unusually cold weather, and unexpected heating oil stock drawdowns. At this point, refiners would normally want to build up stocks by running more crude. In doing so, they would, in the natural course of events, produce 2 bbls of gasoline for every bbl of distillate on average because this is the national average refinery yield pattern. This gasoline would subject to the fee and inventoried, and perhaps sold during the next drivi season (say, six months later). Or it could be sold on spot markets at distress prices. How would refiners behave in this situation?

The first alternative available would be to maximize distillate yields out of planned refinery runs. Presumably reacting to a relatively tight supply outlook--which manifests itself to refiners in terms of higher prices--refiners could raise distillate output by about 300,000 b/d (a 2 percentage-point increase in yield), unless they were already at maximum distillate yield. Maximum distillate yield would only be achieved at relatively higher distillate prices, because this could be a higher cost operating mode. Refiners unable to pass on the conservation fee completely, might seek to avoid it via otherwise uneconomic distillate yield maximation, which could tend to drive up distillate prices via cost-push.

In any event, the next step for refiners would be to import foreign distillate. For nearly 2 years foreign product has been significantly more expensive than domestic distillate. Distillate imports on an expanded scale would only occur at higher prices on domestic markets, unless they were subsidized as they were during the 1979-80 heating season. So prices would have to rise to the import level, and at this price further imports would flow into the country.

This has the undesirable effect of discouraging domestic refining. Absent the gas fee, refiners would run more crude, making about 2 bbls of gasoline for every 1 bbl of distillate. However, every gallon of unwanted gasoline carries a 10¢ fee which refiners are liable for as the gasoline is produced. So every incremental gallon of heating oil produced in this example carries with it a 20¢ fee liability which a refiner (i) might not be able to pass-on totally, (ii) might attach to distillate (raising its price) or (iii) might carry in inventory as gasoline cost at some expense which could be attributed to distillate. In any event all of this would serve to increase distillate cost and refiners would be reluctant to run the "plus barrel" unless they could recoup all related costs. What they would do here is wait until the market justified the full cost increment before increasing crude runs.

This example describes how the fee could cause other product prices to rise. Presumably what has been described here is a transient situation, which is to say that Spring comes after Winter. The point is that a transient demand surge might interact with the fee in such a way that the non-gasoline petroleum product prices might enlarged. To the extent that this happens, further potential problem seems possible. Gasoline prices are controlled i such a way that permits the passthrough of allowable costs to pump prices. If all allowable costs cannot be passed through because of market conditions, then they may be "banked" and passed on at a future time. Capture of part of the fee in other product prices and simultaneous banking of these costs and their subsequent passthrough on gasoline would lead to double recapture of fee-related costs.

The conservation fee and refinery economics

Refinery economics will be changed in a rather direct manner by the fee. Since business decisions in refining tend to be made on the basis of the effects of running or not running the last bbl of crude (marginal cost, in other words), refiners faced with the fee will see it as raising the cost of producing a bbl of gasoline directly. This is because the entitlements mechanism delineated in the April 2 Proclamation directly imposes a 10¢/gallon cost on every gallon of gas refined in the nation. Refiners facing a decision to make a bbl of gasoline or not will consider whether they can recoup the complete marginal cost, including fee. If not, they will eliminate their losses by making less and less gasoline until the market, reacting to reduced supply, accepts (increased) prices such that refiners can recoup all costs including the fee.

It should be noted that product prices, particularly those of uncontrolled products, are determined by the supply and demand for that product and not its cost of manufacture. If other (uncontrolled) product prices were to rise after fee imposition, and gasoline prices did not, these increases would be due to market forces operating on the markets wherein these products are sold rather than refiners misallocating the fee. This is the situational alternative of refiners being unable to pass on the fee to gasoline because the gasoline market is too soft. Just as the gas market is such that it will not accept fee pass-on, so markets for other products must be able to accept higher prices if any fee spill-over were to impact prices. But, for these uncontrolled products, if market conditions would accept higher prices, refiners would likely charge them anyway absent the fee spill-over. These conditions should restrain price increses for the near term, probably the remainder of 1980, during which refiners would have to adjust supplies in order to pass on higher prices to heretofore unaccepting market. The combination of the way the fee has been transfered to refiners by the entitlements program and the way refined product markets work generally tends to reinforce the Administration contention that the fee would be passed on to gasoline and not effect other products. Other product prices are what they are because of supply and demand in their markets. If gasoline markets do not permit full fee pass through, there will be a strong tendency to readjust gasoline supply on the part of refiners because the fee falls directly on gasoline output and can be avoided by producing less. This is the decision a refiner must make in determining how to pass the fee on. He can either reduce gasoline output and avoid the fee outright or he can attempt to manipulate supplies of other products in order to raise prices. Barring the existence of substantial monopoly power, it is much easier to take the first course of action than to try to manipulate a multitude of other product prices via supply adjustments.

HOW MUCH WILL THE FEE SAVE?

The Administration claims that 100,000 b/d of gasoline will be saved by the fee after it has been in place 1 year and 250,000 b/d by the third year. This--viewed relative to current demand--is a 1.5 percent saving which can be attributed to an 8 percent rise from today's price levels. A demand elasticity of about -0.2 is implied here, and a longer run elasticity which is much higher (about -0.5) seems indicated. This contrasts with much current thought, the consensus of which sees elasticity at -0.1 in the short run and -0.3 in the longer term. If this conventional wisdom applies, the Administration's estimated saving could be overstated by a factor of 2.

Recent experience tends to support at least the Administration's short-term view of elasticity and perhaps indicate that the loose consens of economic thought is unduly pessimistic regarding the conservation effect of higher gas prices. Comparing gasoline demand in the 4th quarter of 1978 with the 4th quarter of 1979 (which avoids any supply constraints of Spring 1979 distortion of the comparison), gasoline demand fell from 7.5 mbd to 6.8 mbd, a decline of 9.3%. At the same time DOE data shows average prices rising from 60.7c/gal to 100.6c/gall, or 47.7 percent. The elasticity implied here is -0.2, ASSUMING ALL THE DECLINE IN DEMAND CAN BE ATTRIBUTED TO HIGHER PRICES.

There are a number of factors which may have been at work besides simple price escalation. Prominent among them are the increase in the proportion of small, more fuel efficient cars sold in 1979 and an overall improvement in the fuel efficiency of all auto models sold in 1979, particularly those of the 1980 model year. Also, the psychological impact of fuel shortages in early 1979 is cited by the Lundberg Letter staff as having contributed importantly to conservation. The fact that gasoline prices rose faster than incomes may also be relevant.

In any event, the recent experience with rapidly escalating gasoline prices has provided a new opportunity to approximate elasticity. If this experience is a guide, and if it is reflective of price effects solely, the Administration conservation estimates may well be of the correct order of magnitude.

CONSERVATION FEE COST

The debate on the conservation fee has included calculations of the "cost" per bbl saved. Inasmuch as the revenues generated by the fee all accrue to the Treasury, and are thus public funds, the meaning of the word cost here is not wholly clear. Perhaps a better way of measuring cost would be in terms of overall impact on the economy. Toward this end, we did a simulation using the Data Resources Inc. (DRI) model 1/ to compare the effect of the conservation fee on the economy with a macroeconomic simulation of the economy without fee.

Specifically, what was done is to compare DRI's control solution or base case (dated 4/20/80) which embodies the fee with a new model solution containing no fee. Some key assumptions in the control were that all the fee would be passed on by refiners, the fee would all accrue to the gasoline, and Treasury would retain the resulting reserves. During 1982, 225,000 b/d of gasoline would be saved, an Administration assumption embodied in the control.

Table I shows the negative impact the fee has on key macroeconomic variables when the control is contrasted with the model solution containing no fee.

1/ See Note on Data Revision

TABLE I- Negative macroeconomic effects of 10¢/gallon gasoline conservation fee: 1980-1982

	1980	1981	1982
Decline- Real GNP	0	- 0.2%	- 0.2%
Increase- GNP Deflator	+0.2%	+ 0.5%	+ 0.5%
Increase- Consumer Price Index	+0.3%	+ 0.6%	+ 0.7%
Increase- Rate of Unemployment	0	0	+ 0.1%

SOURCE: DRI and CRS estimates using DRI Model.

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PETROLEUM IMPORT ADJUSTMENT PROGRAM--BACKGROUND AND ANALYSIS OF LEGAL ISSUES

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PETROLEUM IMPORT ADJUSTMENT PROGRAM--BACKGROUND AND ANALYSIS OF LEGAL ISSUES

On April 2, 1980, President Carter issued Presidential Proclamation 4744,[1] creating a new "Petroleum Import Adjustment Program," the purpose of which is to impose a so-called "gasoline conservation fee" of $4.62 per barrel on imports of crude oil with the burden of the fee to fall entirely on gasoline.[2]

The issuance of the proclamation followed President Carter's announcement of his intention to exercise legal authority vested with him to impose such a gasoline conservation fee made in his address to the nation on March 14, 1980.[3]

The purpose of this report is to provide background and to identify and discuss some of the legal issues which may be raised with respect to the new Petroleum Import Adjustment Program.

1979 Proposals for Import Restrictions

The actions taken under Presidential Proclamation 4744 culminate almost two years of discussion of a variety of presidential alternatives designed to cope with high levels of imports of crude oil.

In his address to the nation on July 15, 1979, President Carter announced that a quota system on imports of foreign oil would be established in order to limit the level of imports to that of 1977. The President's message followed the Tokyo Economic Summit Conference held in June of 1979, at which the United States and the other attending nations agreed that each country would take action to limit imports of oil to agreed upon levels.[4]

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[1] 45 F.R. 22864 (April 3, 1980), copy attached as Appendix A.

[2] See, White House Fact Sheet on the Gasoline Conservation Fee Program, (April 2, 1980), at 1.

[3] Wall Street Journal (March 17, 1980), at 3.

[4] 44 F.R. 57902 (October 5, 1979).

Thereafter, the Department of Energy and the Department of Treasury initiated joint hearings and requested public comment on various alternative mechanisms designed to restrict oil imports.[5/] Hearings were held, comments were received, and the two Departments apparently reviewed the matter with the apparent view of formulating a single specific proposed mechanism that would restrict imports.

These joint hearings followed an earlier investigation initiated by the Department of Treasury pursuant to section 232(b) of the Trade Expansion Act of 1962, as amended,[6/] to determine the effects on the national security of imports of crude oil, derivatives and products. Written comments were solicited on a wide range of topics relating to oil imports,[7/] and a major report was prepared.[8/]

The joint hearings of 1979 considered three alternative systems for the reduction of oil imports, although the precise mechanics of each were not specifically formulated. The first alternative which was considered was the so-called auction system, under which rights to import a fixed quantity of oil would be periodically offered for sale to the highest bidders. The second option considered would have established, instead, a license fee system designed to impose a sufficient fee on importers thereby reducing the demand for oil to a quota level. And under the third option considered, the import level of oil would have been restricted to target quantities by distributing, without charge, licenses conferring the right to import a certain quantity of crude oil and petroleum products.

[5/] Id.

[6/] 19 U.S. Code Section 1862(b).

[7/] 44 F.R. 7264 (February 6, 1979).

[8/] 44 F.R. 18818-18854 (March 29, 1979).

The specific details of each of the considered alternatives and the legal authority for each were not extensively set forth in the notice of the 1979 hearings, but the Trade Expansion Act of 1962, as amended, was cited, alone, as the basis for all considered options.

Although it was the apparent intent that following the joint hearings a single proposal would be formulated and another round of public comments solicited prior to final actions by the administration, no further actions were taken after the receipt of the initial round of comments. However, there was extensive Congressional discussion and analysis[9] of the proposed alternatives.

In December of 1979, the Administration informally began to sound out various members of Congress with respect to a new import fee concept described as imposing a fee of roughly ten cents per gallon on gasoline.[10] The Administration apparently decided to drop its long-pending request for legislation levying a 50 cents per gallon gasoline tax and moved to the new concept of the imposition of a 10 cent per gallon fee established by Presidential action under the Trade Expansion Act authority. Thus, the recent Proclamation has resulted from an extensive consideration and rejection of a variety of alternative mechanisms designed essentially to accomplish the same object: reduce oil imports.

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[9] See for example, "Oil Import Restrictions: Background and Analysis of Legal Issues Relating to Current Alternatives," (CRS Report by Robert D. Poling, December 4, 1979); Committee Print, "Oil Imports: A Range of Policy Options," Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce, 96th Cong., 1st Sess. (1979); and Committee Print, "Economic Effects of Oil Import Quota Proposals," Subcommittee on Trade of the House Committee on Ways and Means, 96th Cong., 1st Sess. (1979).

[10] See, Washington Star (December 19, 1979), at A-3.

The Trade Expansion Act

The exclusive authority relied upon as the legal basis for Presidential actions in the alternatives considered during the joint hearings of the Department of Treasury and the Department of Energy in 1979, and a component of Presidential authority cited in the recent Proclamation is the authority under Section 232(b) of the Trade Expansion Act of 1962, as amended. This provision delegates to the President broad authority to take actions to adjust the imports of a commodity under certain circumstances threatening to impair the national security. Specifically, Section 232(b) provides:

> (b) Investigations by Secretary of the Treasury to determine effects on national security of imports of articles; hearings; report to President; adjustment of imports. Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from, and shall consult with, the Secretary of Defense, the Secretary of Commerce, and other appropriate officers of the United States, to determine the effects on the national security or imports of the articles which is the subject of such request, application, or motion. The Secretary shall, if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation. The Secretary shall report the findings of his investigation under this subsection with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, his recommendation for action or inaction under this section to the President within one year after receiving an application from an interested party or otherwise beginning an investigation under this subsection. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall so advise the President and the President shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

Although section 232 does not designate any particular article of commerce in practice it has been confined to foreign oil imports. In 1959, President Eisenhower, having been advised that "crude oil and the principal crude oil derivative and products are being imported in such quantities and under such circumstances as to threaten to impair the national security," invoked the 1958 version of section 232 and established the Mandatory Oil Import Program (MOIP).[11] The MOIP, designed to reduce the gap between domestic supply and demand by encouraging the development of domestic production and refinery capacity, imposed a system of numerical quotas on the importation of petroleum and petroleum products. The program was not wholly successful, however, and in the face of growing domestic consumption, Presidents Kennedy, Johnson, and Nixon amended it in order to raise the permissible quota levels.

President Nixon, acting pursuant to section 232(b), radically amended the program in 1973.[12] The intent of the 1973 changes in the program was to provide for a gradual transition from the existing quota method of adjusting imports of oil and petroleum products to a long-term program for adjustment through the institution of a system of fees applicable to crude oil and various products. In 1975, President Ford raised the so-called "first-tier" fees that were imposed in 1973, and also imposed a supplemental fee of $1 per barrel for oil entering the United States after February 1, 1975.[13] The supplemental fee was scheduled to increase to $2 per barrel after March 1, 1975, and to $3 per barrel after April 1, 1975.[14/]

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[11] Presidential Proclamation No. 3279, 24 F.R. 1781 (1959).

[12] Presidential Proclamation No. 4210, 38 F.R. 9645 (1973).

[13] Presidential Proclamation No. 4341, 40 F.R. 3965 (January 22, 1975).

President Ford's program was challenged by eight states and their governors, ten utility companies and one Member of Congress, who, among other things, alleged that the imposition of the fees was beyond the President's constitutional and statutory authority. Although it was acknowledged that section 232(b) authorized the President to adjust imports of petroleum and products by imposing quotas on such imports, the issue raised in Federal Energy Administration v. Algonquin SNG, Inc.,[15/] was whether section 232(b) authorized the imposition of fees. In its review of the legislative history of Section 232(b), the U.S. Supreme Court concluded that fees were a permissible means of carrying out the purposes of section 232(b):

> Taken as a whole then, the legislative history of Section 232(b) belies any suggestion that Congress, despite its use of broad language in the statute itself, intended to limit the President's authority to the imposition of quotas and to bar the President from imposing a license fee system like the one challenged here. To the contrary, the provision's original enactment, and its subsequent re-enactment in 1958, 1962, and 1974 in the face of repeated expressions from Members of Congress and the Executive branch as to their broad understanding of its language, all lead to the conclusion that Section 232(b) does in fact authorize the actions of the President challenged here. 16/

[14/] However, the fee increases were twice deferred. See, Presidential Proclamation No. 4355, 40 F.R. 10437 (March 4, 1975) and Presidential Proclamation No. 4370, 40 F.R. 19421 (April 30, 1975). The $2 fee eventually went into effect on June 1, 1975. See, Presidential Proclamation No. 4377, 40 F.R. 23429 (May 27, 1975). But the $2 fee was eliminated in January of 1976. See, Presidential Proclamation No. 4412, 41 F.R. 1037 (January 6, 1976).

[15/] 426 U.S. 548 (1976).

[16/] 462 U.S. 548, 570.

Despite its willingness to uphold broad Presidential powers under section 232(b), the Court did issue a word of caution with respect to the breadth of its ruling:

> A final word is in order: Our holding today is a limited one. As respondents themselves acknowledge, a license fee as much as a quota has its initial and direct impact on imports, albeit on their price as opposed to their quantity...As a consequence, our conclusion here, fully supported by the relevant legislative history, that the imposition of a license fee is authorized by Section 232(b) in no way compels the further conclusion that any action the President might take, as long as it has even a remote impact on imports, is also authorized. [emphasis in original] 17/

Thus, it must be observed that even though Algonquin gave legal approval to a specific fee system on imported oil, the legality of the full range of actions which might be taken in the name of section 232(b) is uncertain. The Court in Algonquin appeared to give significant weight to the effect of the fee program. Under that criterion, a fee mechanism which strayed from the purpose of limiting imports to achieve other objectives such as the allocation and regulation of prices in the domestic marketplace, may exceed the limits of section 232 authority. Since Algonquin relates only to the validity of fees to restrict imports under Section 232(b), it may only be helpful in a general way in any consideration of alternative schemes to restrict imports. 18/ In addition to the complex policy

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17/ Id., at 571.

18/ See also, Note, Administrative Law--Delegation of Powers--Statute Granting President Power to Adjust Imports Does Not Authorize Presidential Imposition of Regulatory Imports Fees, 89 Harvard Law Review 432 (1975); Note, Trade Expansion Act of 1962, 9 Vanderbilt Journal of Transportation Law 447 (1976); Robert D.R. De Sugny, Regulation of U.S. Oil Imports, 8 Denver Journal of International Law and Policy 299 (1979); and Note, National Security and Oil Import Regulation: The License Fee Approach, 15 Virginia Journal of International Law 399 (1975).

issues which have been raised with regard to import restriction programs,[19] new questions of legal authority may be raised by Proclamation 4744.

Immediately prior to the issuance of Presidential Proclamation 4744, there were no restrictions on the importation of oil into the United States other than the requirement that one must first obtain a license from the Office of Oil Imports of the Department of Energy.[20]

Obviously, the Congress possesses the ability to modify, abolish or expand, the current powers of the President to establish quotas for oil imports under section 232(b) of the Trade Expansion Act. Congressional interest in oil import policy has been significant.[21] Two recent Congressional attempts to change section 232 are noteworthy. In 1978, Senator Robert Dole offered an amendment to a Department of Treasury appropriations measure which was intended to restrict the use of appropriations in carrying out any import program under Section 232(b). Although the measure was adopted by the Senate on June 27, 1978, it was not enacted.[22]

And, in October of 1979 Senator Johnston offered an amendment to S. 1871 requiring the President to submit proposals establishing oil import restrictions under section 232(b) to the Congress, which would have been authorized to veto such proposals. Again, although that measure was adopted by the Senate, it was not enacted.[23]

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[19] See, Charles J. Cicchetti and William J. Gillen, The Mandatory Import Quota Program: A Consideration of Economic Efficiency and Equity, 13 Natural Resources Journal 399 (1973); Helmut J. Frank and Donald A. Well, United States Oil Imports: Implication for the Balance of Payments, 13 Natural Resources Journal 431 (1973); M.A. Adelman, International Oil, 18 Natural Resources Journal 725 (1978); and James W. McKie, Oil Imports: Is Any Policy Possible? 18 Natural Resources Journal 731 (1978).

[20] See, generally 10 C.F.R. Part 213.

[21] See, Oil and Gas Imports Issues, Hearings before the Senate Committee on Interior and Insular Affairs, 93rd Cong., 1st Sess. (1973).

[22] See, 124 Cong. Rec. S 9854 - S 9861 (Daily ed. June 27, 1978).

However, despite these unsuccessful Senate efforts to enact restrictions on the exercise of the Section 232(b) authority, an amendment to Section 232 was enacted under Section 402 of the Crude Oil Windfall Profit Tax Act of 1980,[24] which was, significantly, signed into law on April 2, 1980 immediately following the issuance of Presidential Proclamation 4744. In essence, the amendment provides that Presidential actions under Section 232 will cease to have effect upon the enactment of a resolution by the Congress.[25]

23/ See, 125 Cong. Rec. S 15399 - S 15412 (Daily ed. October 30, 1979).

24/ Public Law 96-223 (April 2, 1980). See, House Conference Report No. 96-817, 96th Cong., 2d Sess. (1980).

25/ The text of the amendment is as follows:
SEC. 402. DISAPPROVAL OF PRESIDENTIAL ACTIONS ADJUSTING OIL IMPORTS.

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

"(e)(1) An action taken by the President under subsection (b) to adjust imports of petroleum or petroleum products shall cease to have force and effect upon the enactment of a disapproval resolution, provided for in paragraph (2), relating to that action.

"(2)(A) This paragraph is enacted by the Congress--

"(i) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of disapproval resolutions and such procedures supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

"(B) For purposes of this subsection, the term 'disapproval resolution' means only a joint resolution of either House of Congress the matter after the resolving clause of which is as follows: 'That the Congress disapproves the action taken under section 232 of the Trade Expansion Act of 1962 with respect to petroleum imports under ________ dated ________.', the first blank

The Trade Expansion Act authority has been utilized as a significant tool to take actions to cope with the increasing levels of crude oil imports into the United States. It might be observed, however, that the use of the Trade Expansion Act historically has been independent of the use of other statutory powers relating to oil.

The content of Proclamation 4744 goes significantly beyond what has been previously done in the name of the Trade Expansion Act, either wholly or otherwise. Thus, the utilization of the Trade Expansion Act as partial authority for the Proclamation raises legal questions of first impression.

Emergency Petroleum Allocation Act

The other component of the statutory authority vested with the President expressly cited in Proclamation 4744 as a legal basis for the Proclamation is the Emergency Petroleum Allocation Act o f 1973, as amended.[26] Briefly stated, the Emergency Petroleum Allocation Act of 1973[27] established a mandatory system of

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[25] (continued)
space being filled with the number of the proclamation, Executive order, or other Executive act issued under the authority of subsection (b) of such section 232 for purposes of adjusting imports of petroleum or petroleum products and the second blank being filled with the appropriate date.

"(C)(i) All disapproval resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all disapproval resolutions introduced in the Senate shall be referred to the Committee on Finance.

"(ii) No amendment to a disapproval resolution shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this clause shall be in order in either House nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent."

[26] 15 U.S. Code Section 751 *et seq*.

[27] Public Law 93-259, 87 Stat. 627 (1973).

allocation and pricing controls on crude oil and refined petroleum products. The principal provision of EPAA authorizing the establishment of allocation and pricing regulation is contained in Section 4(a) of the Act,[28] which provides in pertinent part

> ...the President shall promulgate a regulation providing for the mandatory allocation of crude oil, residual fuel oil, and each refined petroleum product, in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such regulation...

Although EPAA initially imposed a number of both procedural and substantive limitations with respect to the process and nature of promulgating price and allocation regulations, it is principally this authority, Section 4(a) under which the extensive regulations governing crude oil and petroleum products were promulgated.[29] The Energy Policy and Conservation Act of 1975[30] amended EPAA to permit the exemption of crude oil and refined petroleum products from mandatory allocation and pricing controls, thereby converting the mandatory nature of EPAA authority into a standby authority available to the President to reimpose pricing and allocation controls. Initially the "decontrol" of crude oil and products by the President was subject to Congressional review procedures prior to effectiveness, but on June 1, 1979 the authority to "decontrol" became discretionary with the President.[31] The entire authority to promulgate regulations controlling price

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28/ 15 U.S. Code Section 753(a).

29/ See generally, 10 C.F.R. Parts 210, 211, and 212.

30/ Public Law 94-163, 89 Stat. 871 (1975).

31/ The provision under Section 18 of EPAA, 15 U.S. Code Section 760g, establishes the conversion of the authority under Section 4(a) of EPAA to discretionary Presidential authority "at midnight on the conclusion of the 40th month in which the Amendment under section 8(a) is in effect." The regulation referred to in this passage was the version of 10 C.F.R. Section 212.72 as of December 22, 1975. This regulation was originally promulgated at 40 F.R. 31767 on July 29, 1975. Pursuant to the directive of 15 U.S.Code Section 757(a), the regulation [10 C.F.R. Section 212.72] was amended on February 1, 1976. See, 41 F.R. 4931
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and allocation of crude oil and products under EPAA is scheduled to expire September 30, 1981.[32/]

One of the major elements of the pricing and allocation regulations established under EPAA governing crude oil is the so-called "entitlements" program.[33/] Through a somewhat complicated mechanism requiring the purchase of entitlements, the program was designed to eliminate the disparate prices permitted to be charged under Federal regulation for various categories of crude oil. Perhaps the best brief explanation of the entitlements program is contained in the Cities Service case,[34/] which sustained the legality of the entitlements program:

> The basic purpose of the Entitlements Program was to spread the benefit of access to all price-controlled oil and the burden of dependence on uncontrolled oil among all sectors of the petroleum industry, all regions of the country and among all consumers of petroleum products, while retaining the incentives for increased production and anti-inflationary measures which the two-tier price system provided.
>
> The Entitlements Program essentially requires petroleum refiners to shift their over-all reliance on controlled or uncontrolled oil to a more balanced position among all the refiners. A refiner must, under the Entitlements Program, have one entitlement for each barrel of old oil which it refines during any month. The FEA [now

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31/(continued) *et seq*. This date, February 1, 1976, is the date on which the amendment under 15 U.S.Code Section 763(a) became effective. Therefore, it is the date to be used under 15 U.S. Code. Section 760g to calculate the forty months after which the President's authority became discretionary. Accordingly, the authority became discretionary on June 1, 1979.

32/ 15 U.S. Code Section 760g.

33/ See generally, Note, The Entitlements Program: Emergency Oil Regulation and Private Proprietary Rights, 25 Catholic University Law Review 601 (1976); and, Note, National Energy Goals and FEA's Mandatory Crude Oil Allocation Program, 61, Virginia Law Review 903 (1975).

34/ *Cities Service Company* v. *Federal Energy Administration*, 529 F.2d 1016 (T.E.C.A. 1975).

> the Department of Energy] issues a certain number of entitlements to each refiner each month, based on that refiner's proportionate share of all old oil refined on a nationwide basis, adjusted somewhat by the small refiner bias. The program thus commenced on the premise that all refiners should be including a proportionate share of price-controlled oil in their refinery runs each month.
>
> Entitlement purchase obligations are imposed on a refinery when, on the basis of information supplied to the FEA [now DOE], it has been determined that the refiner was running more old oil as a percentage of its total crude oil refinery runs than the national average and consequently does not have sufficient entitlements for all of the oil it has refined during that month. Those refiners with less oil in their refinery runs than the national average would receive more entitlements than necessary for compliance, which they may sell to those refiners which have purchased obligations under the regulations. [footnotes deleted] [35]

Thus, the requirement that refiners and importers purchasing more expensive oil sell their entitlements has the effect of reducing their costs by the amount of the entitlement sales and at the same time has the effect of increasing the acquisition costs of less expensive crude oil by the amount of the entitlements. This process results in roughly equalizing the crude oil acquisition costs and eliminating the inequities of the disparate crude oil prices.[36]

Although there have been several minor modifications to the entitlements program, the basic elements of the program continue to operate to equalize the disparate prices of various categories of crude oil.[37]

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[35] Cities Service, supra at 1021

[36] See, Pasco, Inc. v. Federal Energy Administration, 525 F.2d 1391, 1395 (T.E.C.A. 1975).

[37] See, 10 C.F.R. Section 211.67.

Another major aspect of the regulations established under EPAA are the controls relating to pricing and allocation of various refined products.[38] Following the enactment of the EPCA amendments to EPAA, and in a series of separate administrative and Congressional actions, the pricing and allocation controls on virtually all refined products, except gasoline, were lifted;[39] however, the controls continue to be available on a standby basis.

Without undertaking an extensive analysis or explanation of the price and allocation controls, there are a few preliminary observations about the nature of the controls on refined products which might be appropriately made here. First, no entitlements mechanism, other than that with respect to crude oil, has existed with regard to refined products prior to the issuance of Proclamation 4744. Secondly, nothing under EPAA expressly authorizes the imposition of a fee mechanism as a price or allocation regulation device, nor does EPAA expressly authorize the collection of revenues as part of any entitlements mechanism. Even the crude oil entitlements mechanism results in no significant collection of revenues by the Federal government, since it merely transfers money among refiners. Thirdly, the EPAA authority has never been used in conjunction with the Trade Expansion Act, supra, authority to form a basis for oil and product regulation of a single form.

For these reasons, many of the questions which are likely to be raised with regard to the legal foundation of the Proclamation involve novel legal issues. Clearly, the questions arise out of the invocation of two rather complex legal authorizations relating to oil: the Trade Expansion Act and the Emergency

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[38] See generally, 10 C.F.R. Parts 210, 211, and 212.

[39] See, 10 C.F.R. Section 210.35.

Petroleum Allocation Act. Before beginning an analysis of the legal issues raised by the Proclamation, it is appropriate to briefly review the content of the Proclamation.

Description of Proclamation 4744

Presidential Proclamation 4744 is broader in content than the earlier Presidential Proclamations issued under the Trade Expansion Act with regard to oil imports.[40] Unlike the prior Proclamations, 4744 establishes both a fee level *and* a mechanism to apportion the payment of fees among non-importer producers. Earlier Proclamations simply established the import reduction mechanism, and allowed existing regulatory mechanisms to govern fee or price increase pass-throughs.

Thus, Proclamation 4744 contains two distinct and major elements: 1) the fee payable to the U.S. Treasury on imports, and 2) the pass-through (entitlements) procedures requiring domestic producers to reimburse importers for at least some of the import license fees paid by the importers. For each one month period under the Proclamation, an importer is required to pay a fee of $4.62 per barrel for an import license, granting the right to import crude oil.[41] A fee mechanism for importation of gasoline is also established under the Proclamation[42] and certain imports are exempted from the payment of fees.[43]

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[40] See, footnotes 11, 12, 13 and 14, *supra*.

[41] Section 1-102(a)(1)(A) of Proclamation 4744.

[42] Section 1-103(a)(1)(B) of Proclamation requires the payment of a tentative license fee of $4.35 per barrel for gasoline, with the actual amount of the fee to be calculated for the one month period equal to the gasoline entitlement value, with an appropriate adjustment thereafter to be made. See, Section 1-104(a)(1) of Proclamation 4744.

[43] Section 1-102(a)(2) of Proclamation 4744 exempts imports of crude oil for the Strategic Petroleum Reserve and imports of gasoline produced in the Virgin

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Payment of fees can be made in two manners: an importer may either 1) prepay the fees when it applies for the import license by submitting with its application a payment of $4.62 per barrel, or 2) post a bond or other security for the amount.[44/] This much of the Proclamation closely resembles earlier Presidential Proclamations governing under oil imports.

However, for the purpose of shifting the cost of the import fees on crude oil to gasoline production, the Proclamation establishes an entitlements mechanism for gasoline. This gasoline entitlements mechanism is separate and distinct, although obviously patterned after, the crude oil entitlements program.[45/]

The gasoline entitlements program established under the Proclamation provides that for each month beginning in March 1980 an importer of crude oil will be issued a number of "gasoline entitlements" equal in value to the total amount of crude oil import fees paid for that month.[46/] For that month, a producer of gasoline is required to buy entitlements equal in number to the number of barrels of its gasoline production,[47/] and a person who has been issued entitlements (an importer) must sell gasoline entitlements.[48/] Thus, the gasoline entitlements

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43/(continued) Islands or a U.S. Foreign Trade Zone from the payment of fees for import licenses. And, three categories of crude oil or gasoline may be imported into the United States without a license under Proclamation 4744: 1) crude oil from Canada pursuant to exchange agreements (See, Section 1-101(a) of Proclamation 4744); 2) crude oil entering the United States which is transported from one point in the United States to another through a pipeline that passes through a foreign country (See, Section 1-106(a) of Proclamation 4744); and 3) certain small shipments of crude oil and gasoline (See, Section 1-106(c) of Proclamation 4744).

[44/] Section 1-103(a)(1)(A) and Section 1-103(a)(2), respectively, of Proclamation 4744.

[45/] See, footnotes 33, 34, and 37, *supra*.

[46/] Section 2-104 of Proclamation 4744.

[47/] Section 2-105(a) of Proclamation 4744.

[48/] Section 2-105(c) of Proclamation 4744.

mechanism results in crude oil importers being fully reimbursed for payments made to the U.S. Treasury for the import fees at the time of payment for gasoline entitlements purchased from them by gasoline producers.[49] It should be noted that the actual entitlements transactions occur during the second month following the month of entry of the crude oil or gasoline.[50] The dollar-value of entitlements will vary from month to month, but the objective of the Proclamation is to establish their value at approximately $4.20 per barrel.[51]

Refiners paying additional costs in the form of entitlements purchases in connection with the production of gasoline may add the cost of the entitlements to the purchased product costs and thereby pass the cost of entitlements along to subsequent purchasers (including retailers) in the form of higher gasoline selling prices.[52] Persons who are not refiners, are deemed to have incurred increased product or acquisition costs for gasoline which they may pass through by increasing the selling price of gasoline.[53] Thus, the pass-through of the entire $4.20 estimated cost of entitlements per barrel would translate into approximately a 10 cent per gallon increase in the retail price of gasoline. And, it is believed by the Administration that this 10 cent per gallon increase will discourage gasoline consumption, thereby discouraging the use of gasoline and reducing the need for the importation of crude oil.

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[49] White House Fact Sheet, *supra*, at 5.

[50] See, White House Fact Sheet, *supra*, at 5; and Section 2-106 of Proclam-

[51] See, Sections 2-103(b) and 2-109 of Proclamation 4744.

[52] See, White House Fact Sheet, *supra*, at 6; and see, Section 2-109 of Proclamation 4744.

[53] Section 2-108 of Proclamation 4744.

One brief observation which might be made is with regard to the permissibility of passing through the entitlements costs in the form of higher selling prices by refiners and others. The language of the Proclamation appears to make such pass-throughs permissive, while at the same time apparently raising the ceiling price of gasoline by the entitlements amount. Thus, it is possible to read the Proclamation as increasing the ceiling price without *compelling* the pass-through of the entitlements amount on gasoline. In light of the fact that other refined products are not subject to price controls,[54] a refiner (or for that matter, a retailer dealing in refined products in addition to gasoline) might choose to simply increase the price of products other than gasoline, or increase the price of all products.

Our review of the explanations accompanying the Proclamation indicates that while the language of the Proclamation may be unclear, such a result was not intended. The pass-through mechanism has been variously described by the Administration as applying exclusively to gasoline, and no apparent intent to the contrary appears to have been expressed.[55]

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[54] See, footnote 39, *supra*.

[55] The preamble of Proclamation 4744 states: "...I take action to reduce oil imports by imposing a fee on imports of crude oil and gasoline and by establishing program *intended to ensure that the burden of the crude oil fee falls on gasoline*." [emphasis added]

The White House Fact Sheet, *supra*, provides, at p. 4, "[t]o shift the cost of the gasoline *entirely* to gasoline production, the Proclamation establishes an entitlements program for gasoline." [emphasis added]
And, a "Memorandum Concerning the President's Authority To Impose An Import Fee and Establish A System To Allocate That Fee To All Gasoline Produced in the United States," prepared by the General Counsel of the Department of Energy (March 26, 1980), copy attached as Appendix B, provides, at p. 3:

"The program also furthers the first objective of the EPAA--protection of the public health, safety, welfare and national defense; to protect the national security (both economic and defense) this Nation's dependence on foreign oil must be reduced. The proposal contemplates reduction of

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Proclamation 4744, by coupling an import fee with a new pass-through mechanism spreading the import fee to all producers of gasoline (irrespective of its origin) undertakes an import reduction action unlike any of the earlier Proclamations under the Trade Expansion Act. These dual aspects of the Proclamation raise a number of novel legal issues.

Legal Issues Raised

An analysis of Presidential Proclamation 4744, in light of the general background description already provided here of both the Trade Expansion Act and the Emergency Petroleum Allocation Act, clarifies the nature of various legal issues. The principal issues which may be raised in connection with the Proclamation have been divided for the purposes of this analysis into the following four broad categories, the order of which is not intended to suggest significance: 1) Revenue Aspects of the Proclamation, 2) Procedural Formulation of the Proclamation, 3) Conjunction of the Trade Expansion Act and EPAA, and 4) Decontrol

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55/(continued) imports through a mechanism *for distributing to gasoline any* (or some designated portion) *of the increased costs of foreign crude oil* or a fee on imported oil. If these increased costs were passed through to the consumers of all petroleum products, the impact would be to raise the price of middle distillates and residual fuel, the petroleum products used for home heating, electric power generation and commercial and industrial uses. These products already sell at or near world market prices, as contrasted with gasoline, which in the United States sells for much less than in other industrialized countries. Raising United States prices for these products above world prices would have consequences detrimental to the public welfare, including making United States manufactured and agricultural products less competitive in world markets, thus contributing to reduced domestic employment. If, however, *the increased costs were passed through only on gasoline*, the impact of the increased costs would be reduced on essential, non-discretionary products and more effective in achieving the protection of the national security because a high proportion of gasoline consumption is discretionary. *Accordingly, the proposal to provide for the pass-through of increased crude oil costs to refiners that produce gasoline furthers the first objective of the EPAA* and such a result could be obtained through an entitlements scheme of the type proposed. [emphasis added].

effects of the Proclamation. While this list of categories and the issues identified here under each category may not be exhaustive of all legal issues which might be raised, we believe the list does identify the major relevant issues.

1) Revenue Aspects of the Proclamation

Initial estimates made by the Administration peg the revenue receipts to the U.S. Treasury during fiscal year 1981 from the gasoline conservation fee at $10.3 billion dollars. 56/ At the time of its initial discussions of the 10 cent per gallon gasoline conservation fee with various members of Congress, the Administration apparently indicated that it would withdraw its long-standing request for the enactment of legislation authorizing a 50 cents per gallon gasoline tax. 57/ As part of the announcement of the Proclamation, the Administration indicated that:

> [o]nce the President's proposed motor fuels
> tax is enacted, the gasoline conservation
> fee program will be terminated. 58/

The apparent interchangeability of the fee mechanism under the Proclamation with tax devices which require legislative authorization perhaps raises the question of whether the Proclamation mechanism is in reality an unlawful tax disguised as

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56/ White House Fact Sheet, supra, at 1. However, it should be noted that the estimate of the revenue for the entire fiscal year 1981 which begins October 1, 1980 and ends September 30, 1981 may not contemplate price actions involving gradual decontrol and phase in of the windfall profits tax. It should be remembered that the authority for the Proclamation, the EPAA, also expires on September 30, 1981.

57/ See, Washington Star (December 19, 1979), at A-3.

58/ White House Fact Sheet, supra, at 2.

lawful fee. The distinctions drawn between a tax and a fee have been troublesome and confusing. First, the fact that revenue to the Federal treasury is generated by both fees and taxes is not significant in distinguishing between the permissibility or objects of either. It is well established that taxes may be imposed for regulatory purposes and are not confined in purpose simply to the generation of revenue.[59] And, it is also well established that that Congress may vest broad discretion with the President to apply taxes in the form of tariffs on imported commodities for various domestic economic purposes.[60]

Similarly, the Supreme Court has sustained the validity of the imposition of Congressionally authorized "fees" as a regulatory device where the benefit is bestowed upon the individual paying the fee[61] or upon the public at large,[62] as a consequence of the regulation.

Thus, it would appear that either the authorization of the use of either a fee or a tax would be a Constitutionally permissible form of regulatory action for the purpose of reducing imports of crude oil. Certainly, the Supreme Court in *Algonquin*, *supra*, at least impliedly approved the use of a fee as such a Constitutional form of regulatory action.

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[59] *United States v. Sanchez*, 340 U.S. 42 (1950); *Magnano Co. v. Hamilton*, 292 U.S. 40 (1934). See also, *Sonzinsky* v. *United States*, 300 U.S. 381 (1937).

[60] See, *Field* v. *Clark*, 143 U.S. 649 (1892); and *J.W. Hampton, Jr. & Co. v. United States*, 276 U.S. 394 (1928).

[61] *National Cable Television Association, Inc.* v. *United States*, 415 U.S. 336 (1974).

[62] *Federal Power Commission* v. *New England Power Co.*, 415 U.S. 345 (1974).

There are, however, other distinctions between nature of fees and taxes which may raise legal issues. Under Article I, Section 8, clause 1 of the U.S. Constitution taxes in the form import duties are required to be uniform throughout the United States. As the Supreme Court noted in *Algonquin*,[63] it did not reach that issue as part of its decision there because the issue was not properly before the Court.

With regard to Proclamation 4744, it would appear that if the uniformity requirement of Article I, Section 8, clause 1 were deemed to be applicable to the fee established by the Proclamation, legal issues might be raised. The fee, while initially assessed against importers of crude oil, is eventually passed along through the entitlements mechanism of the Proclamation to all gasoline produced in the United States. Thus, the fee is uniform throughout the United States, at least with regard to its application on gasoline. However, if the fee is viewed as attaching to petroleum,[64] there may indeed be a disparate regional application of the fee by virtue of the fact that it is ultimately collected only in connection with the single derivative product, gasoline. The significant reliance upon home heating oil by the Northeast and the significant reliance upon gasoline in say, Los Angeles, may have the practical effect of creating disparate regional burdens on Los Angeles to the benefit of the Northeast, where none of the fee would be assessed in connection with home heating oil. Thus, the Constitutionality of the fee mechanism, if Article I, Section 8 were deemed to be applicable to the fee, rests with the matter of how the fee is legally viewed. Is it assessed on imported crude oil or is it assessed on gasoline? Arguments for either view have merit.

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[63] *Algonquin*, *supra*, at 560, footnote 11.

[64] The Trade Expansion Act authority permits the assessment of the fees on commodities imported. Gasoline derived from imported crude oil after domestic refining is not, technically speaking, the commodity imported, but only a portion of the commodity imported. Further, the fee will ultimately be assessed against *all* gasoline whether imported or not.

Even if Proclamation 4744 were not deemed to be subject to the limitation of Article I, Section 8, clause 1, because it did not establish a tax within the meaning of that limitation, requirements under EPAA also appear to impose obligations for certain regional uniformity in pricing and allocation of refined products.

Section 4(b)(1)(F) of EPAA [65/] requires that regulations issued under Section 4(a), of which Proclamation 4744 is undoubtedly one, shall to the "*maximum extent practicable*" provide for "*equitable distribution* of crude oil, and refined petroleum products at *equitable prices* among all regions and areas of the United States and sectors of the petroleum industry..." [emphasis added] First, it might be observed that even though certain other limitations of EPAA became discretionary with the President on June 1, 1979, [66/] to the extent that Section 4(b)(1) ever did operate to prevent certain inequitable distribution and prices among products, it continues to have vitality. Only a few cases appear to have indirectly raised issues relating to the equitability of pricing

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[65/] 15 U.S. Code Section 753(b)(1)(F).

[66/] See, footnote 31, *supra*; and see 15 U.S. Code Section 760g.

or allocation actions,[67] and none have successfully overturned a regulation. For this reason it would seem likely, that the Courts would accord the President broad discretion in the exercise of the regulatory powers and only reluctantly strike down an action because of inequitability of prices, and their effect upon different products and different regions. However, it must be acknowledged that the issues presented under Proclamation 4744 may go beyond any of those raised in the courts thus far.

Certainly few would dispute the regional differences in energy consumption. But that fact, by itself, may only create an inherent limitation on any form of price or allocation regulation to totally avoid disparate regional adverse effects, or stated coversely, disparate degrees of regional benefit. Under any set of circumstances, however, the legal obligation for equitability only extends to the "maximum extent practicable." Thus, it would seem that if the action under the Proclamation was a proper exercise of lawful authority, incidental adverse effects might be legally acceptable. If, however, the authority for the legal action is seriously questioned, regional disparity in effects might raise a significant legal impediment demonstrating a further infirmity of the Proclamation.

2) Procedural Formulation of the Proclamation

Apart from issues relating to the adequacy of the substantive authority to issue Proclamation, there are a number of considerations which might be discussed relating to the procedure utilized in the issuance of the Proclamation.

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[67] See for example, Trans World Airlines, Inc. v. Federal Energy Office, 380 F. Supp 560 (D.C.D.C. 1974), aff'd 520 F.2d 1339 (T.E.C.A. 1975); Consumers Union of United States, Inc. v. Sawhill, 512 F.2d 1112 (T.E.C.A. 1975); and Consumers Union of United States, Inc. v. Sawhill, 525 F.2d 1068 (T.E.C.A. 1975). In addition, the disparate price effects resulting from the so-called "gasoline tilt" regulation has been sustained by the courts, Nader v. Schlesinger, ____ F.2d ______ (T.E.C.A. October 4, 1979), 323 E.U.R. 9 (1979).

The procedure under the Trade Expansion Act requires that the Secretary of Treasury institute an investigation and report findings to the President "to determine the effects on the national security or imports of the articles" upon which the investigation is conducted.[68/] The Secretary is further obligated "if appropriate and after reasonable notice" to hold public hearings.

According to the preamble of the Proclamation, the investigation relied upon to discharge this obligation under the Trade Expansion Act was the March 1979 investigation by the Secretary of Treasury.[69/] No separate investigation and finding has apparently been undertaken since then, although it might be noted that on April 1, 1980, the day immediately preceding the issuance of the Proclamation, the Department of Energy issued a notice in the Federal Register seeking assistance in developing a plan to reduce U.S. vulnerability to an oil import disruption.[70/] Quite obviously, the April 1, 1980, notice was not intended to discharge the investigation responsibilities under the Trade Expansion Act, although it is a somewhat curious request in light of the action taken on the following day.

One of the obvious issues which might be raised with respect to the formulation of the Proclamation is whether the required Treasury investigation preceded the Proclamation by such a long period of time as to render the findings made by Treasury inapplicable to the existing import situation at the time of the

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[68/] Section 232(b) of the Trade Expansion Act, *supra*.

[69/] See, footnotes 6 and 7, *supra*.

[70/] 45 F.R. 21331 (April 1, 1980). Among other things the request for assistance indicated that DOE would undertake to develop a plan which "...would consist of proposed actions which would 1) reduce the overall level of imports by 1985, and 2) provide hedges against the effects of a disruption occurring between now and 1985."

Proclamation. Certainly, much could be said about the reduction of demand for gasoline, and perhaps crude oil generally, during the changing consumption climate of the year between the investigation and the issuance of the Proclamation. Much of the data suggests that the assumed critical level of gasoline consumption during 1979 had been substantially reduced by the date of the Proclamation,[71] possibly rendering the Treasury findings outdated and thereby removing the obvious legal nexus between the findings and the actions taken. In short, the action might not have been taken on the basis of findings which are presently valid or upon expectations of international situations generally which are presently valid. Thus, it might be argued that the action under the Trade Expansion Act is invalid because of the delay following the findings made by the Secretary of Treasury that oil is being imported into the United States, in the language of the Act, "in such quantities or under such circumstances as to threaten to impair the national security."

If the findings indeed continue to be valid, the question is raised about the need now, as opposed to a year ago at the time of the findings, to take action establishing the fee. The Act also contains certain directive language apparently mandating Presidential actions upon valid findings of the Secretary of Treasury, "unless the President determines that the Article is not being imported into the United States in such quantities or under such circumstances as to impair the national security."

71/ For example, evidence on the comparative levels of gasoline consumption suggests a significant decline in consumption in 1980 over 1979 levels. March 1980 figures for U.S. consumption have been estimated at 6.8 million barrels per day compared with 7.3 million barrels per day for February 1979. Lundberg Letter, Vol. III, No. 19 (April 7, 1980), p. 1.

Following the 1979 findings of the Secretary of Treasury, President Carter made no such negative findings , and yet took no affirmative action to reduce imports of oil. It is likely that there exists some reasonable legal limit as to the amount of time which might be permitted to lapse between the predicate findings by Treasury and the consequential and dependent actions by the President.

One other point might be briefly observed. The 1979 findings may have been to some extent abandoned in light of the joint hearings and the considered proposals by Treasury and Energy late during 1979.[72] No findings were made subsequent to those hearings, and curiously none of the proposals considered were finally adopted in the Proclamation. Perhaps even more detrimentally, the Administration appears to have reneged on its commitment to formulate a final proposal and offer it for a final round of comment prior to taking final action.

Thus, an argument could be made, irrespective of whether the 1979 findings continue to have factual validity, that the Secretary of Treasury should have made more recent findings and that the action of the President should have been more contemporaneous with such findings.[73] How the courts might view these arguments is difficult to judge, since the Trade Expansion Act does authorize very broad discretion to the President.

If, however, it might be successfully argued that the original findings made by Treasury are no longer valid, then some basis for a judicial review of those findings and their proper use by the President might be found.

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[72] See, footnote 4 supra.

[73] See for example, Veterans of the Abraham Lincoln Brigade v. Subversive Activities Control Board, 380 U.S. 513 (1965).

There is at least some basis for concluding that even where Presidental discretionary actions are involved, actions taken upon the basis of Congressionally compelled findings may only be taken on the basis of valid findings.[74] Thus, to the extent that the findings do not reflect more recent data indicating a significant reduction in the usage of gasoline and other petroleum products, the courts might be willing to consider such an argument.

Another separate procedural issue relating to the method of formulating Proclamation 4744 concerns the procedural obligations under EPAA. In light of the fact that the President has at least partially relied upon EPAA as the authority for the Proclamation, it may be valuable to briefly review the procedural obligations under EPAA. Heretofore, actions taken under EPAA have been in the form of regulations issued, not directly by the President, but, by the Department of Energy and its procedessor agencies, as the result of Presidential delegations to DOE and its predecessor agencies.[75] Since EPAA creates no administrative procedures itself, the initial exercise of its authority by Federal agencies was subject to the Administrative Procedures Act.[76] At the time of the creation of the Department of Energy, the functions of the Federal Energy Administration, including authority under EPAA, were transferred to DOE.[77] However, a savings provision contained in the DOE

74/ See for example, United States v. International Longshoremen's Association 335 F. Supp 501 (D.C. Ill. 1971), where the court refused to accept as valid or adequate required findings under the Taft-Hartley cooling-off procedure made by the President. More recently, during the 1977-1978 United Mine Workers strike, Judge Aubrey Robinson rescinded an initial temporary restraining order because of the invalidity of the findings under Taft-Hartley.

75/ See, Executive Order 11790, 39 F.R. 23185 (June 25, 1974).

76 5 U.S. Code Section 551, et seq.

77/ Department of Energy Act, Public Law 95-91, 91 Stat. 565, 577 (1977), Section 301(a).

Act[78] continued the legal authority of the President to directly issue "regulations" under EPAA. Actions taken by the Secretary of Energy under EPAA are now subject to the modified Administrative Procedure Act rule-making procedures created under the DOE Act,[79] except for certain special exemptions from procedural obligations.[80] Formulation of regulations under the DOE Act procedures by the Secretary of Energy has been the usual method of exercising EPAA. Since June 1, 1979, the authority under EPAA has become "discretionary"[81] with the President Absent specified procedural requirements, the courts have been unwilling to impose such requirements where Congress has granted "discretionary" authority.[82] Therefore it would seem that apart from Constitutional issues which might necessitate some notice or hearing, Presidential action in the form of rulemaking would not ordinarily impose notice or other administrative procedure obligations. Thus, it would seem that with regard to Proclamation 4744, the President is under no obligation under EPAA or the Administrative Procedure Act to give advance notice, receive comments, or conduct any sort of a hearing.

One final procedural issue relates to the signature by the President of the Proclamation immediately prior to the signature of the Windfall

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[78] Section 708 of DOE Act, *supra*.

[79] Section 501(b) of the DOE Act, *supra*.

[80] See, Section 501(e) of the DOE Act, *supra*.

[81] See footnote 31, *supra*.

[82] See, *United States* v. *Mammoth Oil Co.*, 14 F.2d 705 (8th Cir. 1926). See *also*, *Carter* v. *Carter Coal Co.*, *298 U S. 283*, 291 (1936); and *Vermont Yankee Nuclear Power Corp.* v. *Natural Resources Defense Council, Inc.*, 435 519 (1978).

Profits Tax legislation. This issue will be discussed in conjunction with Congressional options.[83]

It would therefore seem that the only significant legal issue relating to the procedures used in formulating the Proclamation is the matter of relative freshness or staleness of the findings under the Trade Expansion Act.

3) Conjunction of the Trade Expansion Act and EPAA

A question which might be raised with regard to any action taken pursuant to Congressionally delegated authority is whether the action is, as a matter of law, authorized. With regard to Proclamation 4744, it would appear that with respect to the import fee portion of the Proclamation, there is little legal question that the President may impose fees on oil imports under the rationale of *Algonquin*, *supra*. The question then becomes whether the remaining portions of Proclamation 4744 are properly authorized. The legal explanation and analysis of the Department of Energy[84] indicates that with regard to the entitlements aspects of 4744, the administration relies, not upon the Trade Expansion Act, but, principally upon the Emergency Petroleum Allocation Act. As we have indicated, it would seem that once the fee on imports exists, EPAA appears to be a proper vehicle to deal with price and allocation aspects of gasoline.[85]

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[83] *Infra*, at p 36.

[84] DOE General Counsel Memorandum, cited at footnote 55, *supra*, and attached as Appendix B.

[85] Indeed, the President, by himself, could exempt gasoline from all allocation and price controls under EPAA. See, footnote 31, *supra*.

However, the simultaneous creation of an import fee and an entitlements program to pass that fee along only with regard to gasoline may create legal problems. Viewed as a single action predicated upon two independent authorities, the Proclamation may arguably be an action in which the whole exceeds the sum of the parts.

The Trade Expansion Act findings required of the Secretary of Treasury are, in substance, that oil is being imported "in such quantities or under such circumstances as to threaten to impair the national security." In the Proclamation, the President noted that the Secretary had made this required finding and proceeded to elaborate:

> The high level of the Nation's consumption of gasoline is the single most important cause of our dependence on foreign oil. 86/

Thus, one might reasonably conclude that the quantitative aspect of the Treasury findings is that imports are too high, gasoline consumption is too high, and therefore an import fee under the Trade Expansion Act must be imposed to reduce gasoline consumption and thereby reduce imports.

The Emergency Petroleum Allocation Act has as its central objective a somewhat different purpose. 87/ Under the findings and purpose section of EPAA, Congress made these determinations in 1973:

> Sec. 2.(a) The Congress hereby determines that--
> (1) shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist or are imminent;

86/ Preamble of Proclamation 4744, supra

87/ Section 2 of EPAA, 15 U.S. Code Section 751.

> (2) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods; and
>
> (3) such hardships and dislocations jeopardize the normal flow of commerce and constitute a national energy crisis which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the Executive branch of Government.
>
> (b) *The purpose of this Act is to grant the President of the United States and direct him to exercise specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products or dislocations in their national distribution system. The authority granted under this Act shall be exercised for the purpose of minimizing the adverse impacts of such shortages or dislocations on the American people and the domestic economy.*
>
> [emphasis added]

These Congressional findings and purposes have been repeatedly recognized by the courts as the rationale for Congressional enactment of EPAA,[88/] and probably serve as an indispensible finding to sustain the constitutionality of the enactments as a proper exercise of Congressional power under the Commerce Clause of the U.S. Constitution.[89/]

Thus, the enactment of EPAA was for the purpose of dealing with shortages created in the marketplace. It therefore seems somewhat incongruous to invoke EPAA to establish an entitlements mechanism for gasoline because of market dislocations resulting from artificial price increases on imports imposed because imports are too high.

88/ See, *Swann Oil, Inc.* v. *Keystone Portland Cement Co.*, 383 F. Supp. 1299 (D.C. Pa. 1974); *Vold* v. *Marathon Oil Co.*, 407F. Supp. 1011 (D.C. Ky. 1975); and *Consumers Power Co.* v. *Federal Energy Administration*, 413 F. Supp 1024 (D.C. Mich. 1976).

89/ See, *Fuel Merchant's Association* v. *United States*, 387 F. Supp. 699 (D.C.N.J. 1974).

Beyond simply the stated findings and purpose of EPAA, there are other aspects of the authority under EPAA which suggest that EPAA was not intended to be used in conjunction with the Trade Expansion Act. The technical purchase authority under Section 13[90/] of EPAA permits the President to exercise the exclusive right to import and purchase crude oil and refined petroleum products of foreign origin for resale in the United States. But the provision may not be used to "subsidize" importers, nor may it be used to buy or sell at a profit or loss, unless the President determines that "such sales may result in progress toward the *lower* price for oil sold in international commerce." [emphasis added]. The impact of this provision, taken together with other aspects of EPAA, suggests that EPAA was designed to provide authority to cope with excessively high international prices, and hence imports shortages, rather than provide authority to effectively *create* such shortages.

As appealing as this line of argument is, it is undercut by the fact that, in effect, EPAA and the Trade Expansion Act have been coupled before. The earlier Presidential Proclamations were made at a time and in a manner that allowed for the resulting incremental fee increase in the cost of oil to be passed through the crude oil entitlements program. There is, then, at least some administrative precedent for the action, even though the issues have not apparently been litigated. How the courts might view the conjunction of EPAA and the Trade Expansion Act into authority for a single Presidential action is speculative. Certainly, one cannot ignore the caveat of *Algonquin*, *supra*, that the Supreme Court by approving the import fees, at issue there, was not sanctioning any import regulatory mechanism.

[90/] 15 U.S. Code Section 760b.

4) Decontrol Effects of the Proclamation

There is one final category of issues worthy of some attention: the category of issues collected here under the somewhat artificial designation as relating to "decontrol effects."

As previously observed, it seems clear that the President could take actions, independent of Congressional approval or disapproval, which would have the effect of exempting gasoline from the remaining product price and allocation controls.[91/] Presumably, such decontrol of gasoline would permit market demands to establish a market price for gasoline. But, it is not clear that the President can take actions under EPAA, or any other authority for that matter, which would permit, or direct, the sale of gasoline substantially above a market price. Although actions have been taken, and sustained, permitting minor apportionment of additional non-product costs to gasoline,[92/] the magnitude of those actions may be insignificant when compared with the gasoline conservation fee under Proclamation 4744.

If the gasoline conservation fee is viewed as increasing the permissible ceiling price for all gasoline[93/] and it could be economically demonstrated that such ceiling price would be above any market price if the fee had been imposed on crude oil and passed through on all products, then this argument might have some merit. In the extreme, the imposition of a very high import fee, passed through on gasoline by an entitlements mechanism, would constitute the

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[91/] See, footnotes 31 and 84, supra.

[92/] See, Nader v. Schlesinger, footnote 67, supra.

[93/] See, page 18, supra.

imposition of much higher than market prices for gasoline. Whether the fee level imposed by Proclamation 4744 has reached a legally unacceptable level under this argument is not only a matter of economic impact, but a question of the degree of disparity that the courts would reasonably accept. The Department of Energy General Counsel's Memorandum, supra, noted in its conclusion with respect to this issue:

> Finally, in the course of administering the various versions of the oil import program established under section 232(b), the practices of imposing different levels of fees on different types of products, and of providing differring allocations and fee-free allocations for different products and different regions of the United States, including Puerto Rico, are well established. While there has been no ligigation challenging these practices and they have not, therefore, received judicial approval, their longstanding existence provides support for the import fee/gasoline entitlement program. 94/

To some extent this observation could have gone a step further, by mentioning that even under Section 4(b)(2)(D), 95/ the President under some circumstances could take price actions impacting more significantly on gasoline than other products.

Nonetheless, there probably exists some outer limit to price increases that can be taken by combining the Trade Expansion Act and EPAA. Whether that limit has been exceeded by Proclamation 4744 is difficult to determine.

94/ DOE General Counsel's Memorandum, at 7. See, Appendix B.

95/ A "limitation", which was lifted when the President's authority under EPAA became discretionary, may never have prevented disproportionate costs from being attributed to gasoline, at least under certain circumstances. The lifting of this limitation under 15 U.S. Code Section 750g, may now more clearly provide such authority.

Congressional Options

In evaluating its response, if any, to the issuance of Proclamation 4744, the Congress has a variety of alternatives. Obviously, the Congress could do nothing and simply permit the courts to address any legal issues which might be raised against the Proclamation.

Congress could, if it chooses, repeal existing authorities upon which the Proclamation has been based, or could be based.[96]

Yet another Congressional option has been raised by the recent enactment of the amendments under Section 402 of the Crude Oil Windfall Profit Tax Act[97] to the Trade Expansion Act, providing for a Congressional "disapproval" procedure for actions restricting oil imports under the Trade Expansion Act. Even though the Proclamation was issued prior to the signature of the Windfall Tax Act, it is arguable that the language permitting the termination of the force and effect of such actions reaches simultaneous or contemporaneous action taken by the President.[98]

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[96] In addition to repeal of the Trade Expansion Act, and the Emergency Petroleum Allocation Act, in order to forclose any Presidential action other statutory authorizations might also have to be repealed, including the International Emergency Powers Act, 50 U.S. Code Section 1701, and the Defense Production Act, 50 U.S. Code App. Section 2071(a)(2). See generally, Robert D.R. De Sugny, Regulation of U.S. Oil Imports, 8 Denver Journal of International Law and Policy 299 (1979).

[97] See, footnotes 24 and 25, *supra*.

[98] In addition, the statutory language of the amendment appears to embrace disapproval of both quotas and fees, in light of the use of the exact language of Section 232(b), relied upon in *Algonquin*, *supra*, to permit import fees despite the suggestion in the Conference Report that the provision "amends the Trade Expansion Act of 1962 to eliminate the President's authority under that Act to impose oil

(continued)

Accordingly, the Congress could adopt the specified joint resolution and void the Proclamation.[99] Such an action has been initiated in both the Senate and the House. On April 2, 1980, the day of the Proclamation, Senators Dole and Roth introduced Senate Joint Resolution 159, which would disapprove of the Proclamation.[100] And, on April 15, 1980, Congressman Shannon (and several others) introduced House Joint Resolution 531.[101]

In the event Congress takes no action and the Courts do not set aside the Proclamation, its vitality could not legally extend beyond the expiration of EPAA September 30, 1981, unless the President undertook to rely upon some other authority for the entitlements portion of the Proclamation.

On the other hand, the President has apparently indicated that if a permanent gasoline conservation tax is enacted, he will terminate the Proclamation.

Conclusions

The unique nature and complexity of the statutory authorities underlying Proclamation 4744 make it very difficult indeed to reach a firm pronouncement regarding its legality or illegality. Certainly, there are a number of legal issues which might be raised in opposition to the Proclamation, some of which appear more significant than others.

98/(continued) import quotas whenever a Joint Resolution is enacted..." See, House Conference Report 96-817, 96th Cong., 2d Sess. (1980), at 162.

[99] Of course, the joint resolution could be vetoed by the President, and only upon passage by the 2/3 vote in both Houses become effective.

[100] See, 126 Cong. Rec. S 3467 (Daily ed. April 2, 1980).

[101] See, 126 Cong. Rec. H 2545 (Daily ed. April 15, 1980).

The ultimate determination of legality, in the absence of Congressional disapproval, will rest with the courts. How they might view the Proclamation will depend both on the arguments which may be raised and, perhaps to some degree, upon the economic data which can be brought to support various connections.

Although courts have traditionally refused to interfere with the discretion vested pursuant to Congressional delegations, they are not the least reluctant to overturn actions beyond the scope of delegated authority.[102] Thus, it seems likely that the principal focus of legal issues will be on the adequacy and propriety of issuing the Proclamation on the basis of *both* the Trade Expansion Act and the Emergency Petroleum Allocation Act.

Robert D. Poling
Robert D. Poling
Legislative Attorney
American Law Division
April 15, 1980

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[102] See, *United States* v. *United States District Court*, 407 U.S. 297 (1972); and *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952).

Mr. Vanik. And before you proceed, Mr. Secretary, I would like to ask our distinguished colleague, the chairman of the House Energy Committee, our distinguished colleague from Michigan, Mr. John Dingell, if he has a comment he would like to make. We have invited the members of the other committees involved in this issue to sit with us to hear your testimony and to ask questions in their turn.

Mr. Dingell.

STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Dingell. Mr. Chairman, I thank you greatly for your kindness and courtesy to me and the members of our subcommittee and the others who are interested in this matter. Your invitation is indeed a gracious one and I am most appreciative for the opportunity to participate in these very important hearings on the President's gasoline import fee and entitlements program.

Your comments have been most statesmanlike and I commend you for them. These hearings will raise a number of issues which are of particular interest and concern to both of our subcommittees. I do not appear here this morning to deal with matters under the proper jurisdiction of your committee. I am satisfied that the question of mechanisms with regard to the import fee will be well handled by your subcommittee.

The gasoline entitlement mechanism, which is a part of this program, is an absolutely essential element if we are to have the program envisioned by the administration. It must, however, be carefully scrutinized to ascertain that it will in fact work.

Although the gasoline entitlement program passes on the cost of the import fee to gasoline producers, we must have assurances that oil companies will limit their cost recovery to gasoline. That is a question I am sure we will be going into at a time later.

DOE may never be able to determine whether the cost of the gasoline import fee is passed on to the other refined petroleum products. The prices of refined products are affected by many factors other than the President's program. And it has been observed that if gasoline prices increase by only 5 cents per gallon on May 15, 1980, when the program begins, the missing 5 cents per gallon may have been absorbed by the oil companies or by other refined petroleum products whose price could have been increased over what they otherwise would have been because these other products are not subject to control. Such matters may be not within the reach of governmental authority. This is a question that has to be answered.

It is particularly important that all the data and information relating to the President's import fee and entitlement program be made available to the Congress so that its judgment on this matter may be based on a complete record.

Again, Mr. Chairman, I wish to thank you for your courtesy to me and to my colleagues on the Subcommittee on Energy and Power and for your kindness to us. I assure you that our staff will continue to cooperate with you and your staff in building a record on this vitally important matter.

Mr. **Vanik**. Thank you. Our chairman of the Ways and Means Committee, Mr. Ullman.

Mr. **Ullman**. Mr. Chairman, I just want to commend you for holding these hearings and commend the Secretary for being available at this early date and also our colleague from Michigan, Mr. Dingell, for appearing. We are anxious to hear you. This is a very complex, very important, very controversial matter, one that is going to require a great deal of understanding as well as effort on the part of this committee.

So, we appreciate your coming up. We look forward to hearing your testimony, Mr. Secretary.

Mr. **Vanik**. Thank you, Mr. Chairman.

Mr. Shannon wants to make a brief statement.

Mr. **Shannon**. Mr. Secretary, I thank you for coming here also. As you know, I have some very deep concerns about this proposal, both in terms of energy policy and economic policy. I have concerns about the way in which it is going to be administered.

But I think my greatest concerns are the authority under which you think that the President has the power to levy a 10-cent-a-gallon gas tax and whether or not the Congress has ceded to you at any point in the past that authority. We have some specific concerns in our part of the country as to whether or not you will be able to administer this so that all of the increased costs of oil resulting from the import fee will go into gasoline, or whether or not some of it can be siphoned off into heating oil and other petroleum products.

So, I look forward to your testimony and I look forward to your explanations of all of these areas. Thank you.

Mr. **Vanik**. Thank you very much. Mr. Secretary, we are ready for your statement.

STATEMENT OF HON. CHARLES W. DUNCAN, JR., SECRETARY OF ENERGY, U.S. DEPARTMENT OF ENERGY, ACCOMPANIED BY THOMAS NEWKIRK, DEPUTY GENERAL COUNSEL FOR REGULATION; LYNN COLEMAN, GENERAL COUNSEL; AND DOUGLAS ROBINSON, DEPUTY ADMINISTRATOR FOR POLICY, ECONOMIC REGULATORY ADMINISTRATION

Secretary **Duncan**. Thank you very much, Mr. Chairman.

Mr. Chairman and members of the subcommittees, I thank you for this opportunity to testify before the subcommittees on the President's gasoline conservation fee program.

The members of this committee present here this morning are familiar with the authority under which the gasoline conservation fee was imposed and the mechanics of the entitlement system. We will be discussing, Mr. Shannon, the issues you just raised in your comments, I am sure.

The things I would like to address myself to now are the policy questions raised by the fee. I want to make three fundamental points: The first is that the gasoline fee is an effective conservation measure. The second is that we need it right now to help protect our economy. Third, we need it long term to help protect our foreign policy and our national security interests.

There are certain things we can differ on. We can differ on some aspects of this program, but it seems to me that the facts supporting the three points I have just made are straightforward and they are compelling. I would like to deal with each one in turn.

First, the gasoline fee is an effective conservation measure. The fee imposed on gasoline consumption goes to the heart of the problem which is that almost one-half of our total petroleum supply is being consumed in the form of gasoline. Because gasoline is price elastic and so much of its use is discretionary, gasoline has the greatest potential for conservation. Progress in reducing our level of imports without cutting into economic productivity is going to depend importantly on our ability to successfully cut back on gasoline consumption.

We project the gasoline conservation fee will reduce gasoline consumption by approximately 100,000 barrels per day by the end of the first year. By the end of the third year, the fee or the motor fuels tax that we propose to be substituted for the fee is going to reduce gasoline consumption by up to 250,000 barrels daily.

Please permit me to speak very frankly. We all favor conservation but we sometimes back off when it comes time to support effective measures to promote conservation. There is no one that likes taxes to promote conservation, but rhetoric and moral suasion do not do the job. They do not promote conservation adequately.

More regulations could promote conservation, but more regulations mean interference with the freedom of your constituents. More public spending could promote conservation but we are all involved in a painful process of cutting back on Government spending.

The unpleasant fact is that the gasoline tax, as much as we might like it to be otherwise, is the best available means to get on with this important national priority, conservation of gasoline consumption.

Right now the inventories of crude oil and gasoline are at very high levels. We are in a period where supply and demand are in balance and once again we are hearing voices that argue that there is no need to take any steps now to reduce gasoline consumption. We cannot permit ourselves to become complacent, to be lulled into believing that our energy problems are over every time the gas lines disappear and gasoline stations begin to stay open longer. The need to conserve is going to be with us for many, many years and it has to be reinforced by economic measures like the gasoline fee, by public information, and by strong leadership.

My second point was, we need the gasoline fee to help protect our economy. The American consumer is going to spend $90 billion this year for imported oil. That expenditure is up 50 percent over last year, and it is up over 1,000 percent since 1973. This drain of U.S. dollars to foreign producers is a major cause of inflation and it is a cause that threatens our economy as does no other single factor.

The cost of oil has risen dramatically and the forecast of diminishing supplies would indicate that it is extremely unlikely that oil is going to be any cheaper ever. The price of imported oil in December of 1978 was $13 a barrel. In January of 1980, only 13 months later, the price was $30 a barrel. The price today in April would average around $32 a barrel. This is nearly a 150-percent increase in 16 months.

Sometimes people have a hard time grasping exactly what a large amount of money $90 billion really is. It might be helpful to give a couple of examples. That means that we are spending $10 million every hour for imported oil. The total combined assets of General Motors, Ford, IBM, and General Electric are about $90 billion. The net income of the entire Fortune 500 list of companies—all 500 combined—is less than $80 billion; $90 billion is 2½ times all the money we are spending in 1980 for all of the equipment for the Army, the Navy, the Air Force and the Marine Corps combined. This $90 billion cost of energy has more to do with our inflation rate, the value of the dollar, and our balance-of-payments deficit than any other single economic component.

The gasoline conservation fee is an important step toward slowing the drain of U.S. dollars to foreign producers. It will do that by slowing consumption in its most discretionary form. Every barrel of oil that we conserve means one less barrel of oil that we import. Every barrel of oil that we conserve saves an average of more than 30 U.S. dollars that otherwise would leave this country. Ultimately, this saves jobs and it saves economic hardship. It is the right long-term course for this country. And I believe that to be an empirical fact.

My third point was, we need the gasoline fee to help protect our foreign policy and our national security interests. It is very important to make the point here that even if our economy were not in its present condition, we would have to take this and other conservation steps to protect our foreign policy and national security interests.

The gasoline conservation fee will reduce pressure on world crude prices, help our allies, and demonstrate the willingness of the United States to make sacrifices to curtail gasoline use. By taking our own domestic actions to control consumption, we are reinforcing our underlying national resolve not to let our necessity for oil affect our international actions, or to let others think they can.

The international situation is fragile and it is not improving. We no longer buy oil from Iran. Several oil-producing countries, including Kuwait, Algeria, and Venezuela, have cut their production. Saudi Arabia continues to reevaluate its production levels.

We are attempting to forge a strong consensus among consuming nations. We cannot ask or expect others to help take pressure off the international oil market unless we are willing to take tough measures ourselves.

All the consuming countries have significant gasoline taxes. We often forget how stiff those taxes are. We are talking today about the possibility of a 10 cents per gallon tax in the United States. The Germans pay a tax of $1.14 per gallon. The French pay a tax of $1.62 per gallon. The Italians pay a tax of $1.83 per gallon. The British pay a tax of 89 cents per gallon.

In this morning's Washington Post, I saw an article that the Israelis, with a 117-percent inflation rate, have increased the price of their gasoline by 36 percent to a price of $3.05 per gallon and they are expecting another increase this summer.

Now, I am not suggesting that we raise taxes to these levels, but we should keep our concerns in perspective, and it is important to heed the experience of other nations.

The international response to the President's action to impose the gasoline conservation fee has been very positive. Support is growing as recently as this week at a meeting of the governing board of the International Energy Agency for year-by-year and country-by-country commitments to ratchet down demand and to distribute equitably the burden of any shortages.

We have to strike down the expectation of leverage that dependence on foreign oil creates with respect to our foreign policy. Only firm, tough measures like the gasoline conservation fee will do that.

It is our assessment that the gasoline conservation fee is necessary, that it is efficient, and that it can be effective. We have built in flexibility to deal with unforeseen circumstances in the future, and the administration will be transmitting permanent tax legislation to Congress. This legislative proposal will enable the Congress to address this program over the longer term.

I know that the pressures on each of you from many interest groups who have their eyes on the short term is intense. I know that the short-term price effects of this action are great to you. But we must not fall back, we must not waiver in our determination to get gasoline consumption down; and in my judgment, we must have this gasoline import fee to achieve our domestic, international, and national security objectives.

Mr. Chairman, may I introduce the gentlemen with me. On my left is Lynn Coleman, General Counsel of the Department of Energy; on his left is Mr. Tom Newkirk, Deputy General Counsel, and on my right is Mr. Doug Robinson, the Deputy Administrator of the Economic Regulatory Administration.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF CHARLES W. DUNCAN, JR., SECRETARY, DEPARTMENT OF ENERGY

I appreciate this opportunity to testify before both Subcommittees on the President's gasoline conservation fee program.

I know the members of the Committees present here this morning are familiar with the authority under which the gasoline conservation fee was imposed and the mechanics of the entitlement system under which it is shifted from crude oil imports to domestic production of gasoline. I would therefore like to address the policy questions raised by the fee and I want to make three fundamental points:

(1) The gasoline fee is an effective conservation measure;

(2) We need it right now to help protect our economy; and

(3) We need it long term to help protect our foreign policy and national security interests.

We can differ about some aspects of this program, but it seems to me that the facts supporting these three points are straightforward and compelling.

1. THE GASOLINE FEE IS AN EFFECTIVE CONSERVATION MEASURE

The fee imposed on gasoline consumption goes to the heart of the problem. Almost half of our total petroleum supply is consumed in the form of gasoline. Because gasoline is price elastic and so much of its use is discretionary, it has the greatest potential for conservation. Progress in reducing our level of imports without cutting into economic productivity, will have to be achieved by cutting back on gasoline consumption.

We project the gasoline conservation fee will reduce gasoline consumption by approximately 100,000 barrels per day by the end of the first year. By the end of the third year, the fee or the motor fuels tax (that is proposed to be substituted for the fee) is expected to reduce gasoline consumption by up to 250,000 barrels per day.

Permit me to speak plainly. We all favor conservation but we back off when it comes time to support effective measures to promote conservation. None of us like raising taxes to promote conservation.

Rhetoric and moral suasion do not promote conservation;

More regulations could promote conservation, but more regulation interferes with the freedom of your constituents;

More public spending could promote conservation, but we all are involved in a painful process of cutting back on government spending.

The unpleasant fact is that the gasoline tax, as much as we might like to deny it, is the best available means to get on with this important national priority.

Right now inventories of crude oil and gasoline are at high levels. We are in a period where supply and demand are in balance, and once again we hear voices arguing that there is no need to take any steps now to reduce gasoline consumption. We cannot allow ourselves to become complacent, to be lulled into believing that our energy problems are over every time the gas lines disappear and stations begin staying open longer. Our need to conserve will be with us for many years and it has to be reinforced by economic measures like the gasoline fee, by public information and leadership.

2. WE NEED THE GASOLINE FEE TO HELP PROTECT OUR ECONOMY

Americans will spend approximately 90 billion dollars this year for imported oil—up 50 percent over last year and up over 1000 percent since 1973. This drain of United States dollars to foreign oil producers is a major cause of inflation and threatens our economy as does no other single factor.

The cost of oil has risen dramatically and the forecast of diminishing supplies would indicate that it is extremely unlikely that oil is going to get any cheaper ever. In December 1978 the price of imported oil was $13 a barrel. In January 1980, 13 months later, it was $30 a barrel and the price today in April averages about $32 a barrel. This is nearly a 150 percent increase in only 16 months.

Sometimes people have a hard time grasping exactly what a large amount $90 billion really is. A couple of examples are appropriate. It's $10 million an hour. The total combined assets of General Motors, Ford, IBM and General Electric are about $90 billion. The net income of the entire Fortune 500 companies—all 500 combined—is less than $80 billion. $90 billion is two and one-half times all the money we are spending in 1980 for all the equipment for the Army, the Navy, the Air Force and Marine Corps combined. This $90 billion cost of energy has more to do with our inflation rate, the value of the dollar, and our balance of payments deficit than any other economic component.

The gasoline conservation fee is an important step toward slowing the drain of United States dollars to foreign producers. It will do that by slowing consumption. Every barrel of oil that we conserve means one less barrel of oil that we import. Every barrel of oil that we conserve saves an average of 30 United States dollars that otherwise would leave this country. Ultimately, this saves jobs and it saves economic hardships. It is the right long term course for this country, and I believe that to be an empirical fact.

3. WE NEED THE GASOLINE FEE TO HELP PROTECT OUR FOREIGN POLICY AND NATIONAL SECURITY INTERESTS

It is very important to make the point here that even if our economy were not in its present condition, we would have to take this and other conservation steps to protect our foreign policy and national security interests.

The gasoline conservation fee will reduce pressure on world crude prices, help our allies, and demonstrate the willingness of the United States to make sacrifices to curtail gasoline use. By taking our own domestic actions to control consumption, we are reinforcing our underlying national resolve not to let our necessity for oil affect our international actions, or let others think they can.

The international situation is fragile and it is not improving. We no longer buy oil from Iran. Several oil producing nations, including Kuwait, Algeria, and Venezuela, have cut their production. Saudi Arabia continues to reevaluate its production levels.

We are attempting to forge a strong consensus among consuming nations. We cannot ask or expect others to help take pressure off the international oil market unless we are willing to take tough measures ourselves.

All the consuming countries have significant gasoline taxes. We often forget how stiff those taxes are. While we debate a 10 cent per gallon tax in the United States,

The Germans pay a tax of $1.14 per gallon;
The French pay a tax of $1.62 per gallon;
The Italians pay a tax of $1.83 per gallon; and
The British pay a tax of $.89 per gallon.

I noticed in this morning's paper that the Israelis, with a 117 percent inflation rate, increased the price of their gasoline 36 percent and they are expecting another increase this summer.

I am not suggesting that we raise taxes here to that level, but we should keep our concerns in perspective and heed the experience of other countries.

International response to the President's action to impose the gasoline conservation fee has been very positive. Support is growing in the International Energy Agency for year-by-year and country-by-country commitments to rachet down demand and to distribute equitably the burden of any shortages.

We must to strike down the expectations of leverage that dependence on foreign oil creates with respect to our foreign policy. Only firm, tough measures like the gasoline conservation fee will do that.

It is our assessment that the gasoline conservation fee is necessary, efficient, and effective. We have built in flexibility to deal with unforeseen circumstances in the future, and the Administration will be transmitting permanent tax legislation to Congress. This legislative proposal will enable the Congress to address this program over the longer term. I know that the pressures on each of you from interest groups who have their eye on the short term will be intense. I know that the short-term price effects are of great concern to you. But we must not fall back; we must not waiver in our determination to get gasoline consumption down; and in my judgment we must have the gasoline import fee to achieve our domestic, international, and national security objectives.

Mr. VANIK. It will be the policy of the Chair to proceed in accordance with the Gibbons rule as the members appeared and on the basis of a 5-minute period for questioning and after that first round, then we will have a more expansive opportunity for questions.

Mr. Gibbons.

Mr. GIBBONS. Well, Mr. Secretary, first I want to commend you and I want to commend the President and the administration for having enough guts to do what is correct and tough. We have got to cut down on our consumption. And all of those who object to the mechanism by which this tax is levied can cure it real quickly by levying a 10 cents a gallon gasoline tax.

And I think I am a living example you can survive a 50 cents a gallon gasoline tax and still get reelected. So, I do not think there is any real problem here. It is more of a psychological problem than it is either a political or a legislative problem.

Now, obviously there is a direct connection between gasoline consumption and the price of the product. So, I think that you have done the right thing. I support you. And I will vote to kill all the bills, including Mr. Shannon's, that I can to keep him from repealing what I think is a very correct tax.

I do not have any questions; I am glad you did the right thing and I support you.

Secretary DUNCAN. Thank you, sir.

Mr. VANIK. The Chair now recognizes Mr. Shannon for 5 minutes.

Mr. SHANNON. We will put Mr. Gibbons in the undecided column. [Laughter.]

Mr. Secretary, I would like to ask you what is the enforcement authority for the entitlements aspect of the President's proclamation?

Secretary DUNCAN. The enforcement authority of the entitlements procedures is the EPAA, the Emergency Petroleum Allocation Act, and also the Trade Expansion Act.

Mr. SHANNON. What enforcement authority exists under the Trade Expansion Act?

Secretary DUNCAN. The President has concluded that the national security of the Nation is threatened by our dependency on foreign oil. He has also concluded that the consumption of gasoline is the important part of that threat and the place we can get relief most quickly without adverse economic impact.

He has chosen, pursuant to authority in section 232(b) of the Trade Expansion Act, to make that determination.

Mr. SHANNON. I understand that, but what enforcement mechanisms exist under the Trade Expansion Act?

Secretary DUNCAN. You could revoke import licenses under the authority in the Trade Expansion Act.

Mr. SHANNON. Well, let's say I am a refiner in Wyoming who does not import oil. How are you going to use the Trade Expansion Act to enforce my entitlements obligation?

Secretary DUNCAN. You impose the fee on imported oil only pursuant to 232(b) of the Trade Expansion Act and you do that in the interest of the national security of the Nation.

Mr. SHANNON. How can you use that to enforce the entitlements provisions of the proclamation?

Secretary. DUNCAN. You could make a judgment that you want to allocate that fee against gasoline consumption and that that, too, is in the national security interests of the Nation by reducing the consumption of gasoline.

Mr. SHANNON. I understand the policy considerations but I just want to know the mechanisms. Let me give a hypothetical situation. I understand the policy arguments you are making. I am worrying about the administration of it.

Let's say I am a refiner in Wyoming and I do not import oil and I do not want to pay my entitlements obligation. What are you going to do to me?

Mr. ROBINSON. Mr. Shannon, the Trade Expansion Act, as the Secretary indicated, does not have specific enforcement authority other than the authority to revoke an import license.

Mr. SHANNON. I do not think the Secretary indicated that. I think he indicated he would——

Mr. ROBINSON. He indicated we can revoke import licenses.

Mr. SHANNON. I do not import oil. I am a refiner. What are you going to do to me?

Mr. ROBINSON. The entitlements portion of the President's proclamation is based both on the Trade Expansion Act and on the authority of the Emergency Petroleum Allocation Act. The Emergency Petroleum Allocation Act does have enforcement provisions which provide for both civil and criminal penalties as well as the authority for Government to go into court and seek injunctions.

Mr. SHANNON. Practically, what does that mean? I do not want to pay any entitlement obligation. What are you going to do?

Mr. ROBINSON. If someone refuses to pay their entitlements obligation, we will take strong, forceful, and immediate enforcement action in the form of seeking an injunction against them mandating their payment.

Mr. SHANNON. Does that come under the Trade Expansion or the EPAA?

Mr. ROBINSON. That comes under the EPAA.

Mr. SHANNON. So that comes under EPAA?

Mr. COLEMAN. You can do that under either one. You can file for injunctive relief to enforce a legal obligation placed upon a person by a regulation validly drawn under general authority to enforce the laws. The Attorney General has that authority.

Mr. SHANNON. Under general authority to enforce the law?

Mr. COLEMAN. Yes.

Mr. SHANNON. So, you are telling me that you have a general authority to enforce some kind of law but is there any statutory basis for this authority?

Mr. COLEMAN. The authority which gives the Attorney General——

Mr. SHANNON. Under what?

Mr. COLEMAN. Well, the Attorney General's general authority. It is by statute.

Mr. SHANNON. What statute?

Mr. COLEMAN. It is so commonly understood, I do not recall the citation, but I can provide that to you later if you like.

[The following was subsequently received:]

DEPARTMENT OF ENERGY,
Washington, D.C., May 6, 1980.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearing conducted on April 24 before the Subcommittee on Trade, I was asked to provide my understanding of the legal basis under which the Attorney General might seek judicial enforcement of regulations adopted pursuant to the Trade Expansion Act of 1962, as amended.

The statutory material to which I referred appears at 28 U.S.C. 515–519. In general these provisions specify that the Attorney General supervises, and may conduct, any litigation in which the United States has an interest.

The Supreme Court also has indicated, in a variety of contexts, that the ability of the United States to seek appropriate judicial relief is not dependent upon the existence of a statute expressly so providing. See *Wyandotte Trans. Co.* v. *United States,* 389 U.S. 191, 201 (1967); *Cotton* v. *United States,* 52 U.S. (11 How.) 229 (1851); *United States* v. *San Jacinto Tin Co.,* 125 U.S. 273 (1888).

For these reasons I am of the view that the government might secure appropriat court orders enforcing regulations implementing Presidential action under sectio 232 of the Trade Expansion Act despite that statute's silence on sanctions for noncompliance with such regulations.

I hope this clarification of my testimony will be useful to you and to the Subcommittee.

Sincerely,

LYNN R. COLEMAN, *General Counsel.*

Mr. SHANNON. Have you thought about what basis you would use to enforce this thing?

Secretary DUNCAN. I can assure you that—you know, I am not a lawyer and I am addressing here primarily the policy issues but I have Mr. Robinson and Mr. Coleman with me—but this was looked——

Mr. SHANNON. Mr. Secretary——

Secretary DUNCAN. May I finish, sir?

Mr. SHANNON. Go right ahead.

Secretary **DUNCAN**. But this was looked at very thoroughly by the General Counsel in the White House, by the Attorney General, and by the Office of General Counsel of the Department of Energy.

Mr. **SHANNON**. But you have to enforce this thing starting next month. What are you going to do if a refiner refuses to pay his entitlement obligation?

Secretary **DUNCAN**. Precisely what Mr. Coleman just said.

Mr. **SHANNON**. What is that? What is the statutory basis for your enforcing the entitlement obligation?

Mr. **COLEMAN**. You have clear authority to do that under the EPAA and you have, in my opinion, clear authority to do it independently under the Trade Expansion Act.

Mr. **SHANNON**. There is no enforcement mechanism in the Trade Expansion Act. Mr. Robinson just told us that.

Mr. **COLEMAN**. There are no specific provisions authorizing suit but, in my opinion, it is unnecessary for Congress to provide specific provisions in a particular statute when they have already provided generally for the Attorney General to enforce all of the laws.

You pass the laws every day that you do not put specific provisions in that you are going to count on the Attorney General to enforce if somebody does not go along with it.

Mr. **SHANNON**. I do not think you have thought about how you are going to enforce this thing.

Mr. **VANIK**. I might say that the gentleman from Massachusetts has brought up a very, very important point, because I think there is a rather liberal use of the authority here. That is a serious question we will have to keep addressing ourselves to, and I think you are stretching expectations.

One of the laws under which you are operating is going to expire September 30, 1981. So, this will have to be resolved.

The Chair now recognizes Mr. Archer of Texas.

Mr. **ARCHER**. Mr. Secretary, we are pleased to have you before the committee today and want to welcome you. We may have divergent views on this, but I respect you and the job that you are doing at the Department of Energy.

Do I understand from your previous colloquy with Mr. Shannon that your contention is that even if the authorities you have under the EPAA are not renewed you will still be able legally to enforce this under the Trade Expansion Act?

Secretary **DUNCAN**. That is correct.

Mr. **ARCHER**. There is no doubt in your mind about that?

Mr. **COLEMAN**. No, that is correct.

Mr. **ARCHER**. All right. We cannot really tell until decontrol is fully implemented what the price of gasoline is going to be in October of 1981. You have some projections I am sure, but nobody really knows.

Mr. **COLEMAN**. That is correct.

Mr. **ARCHER**. It seems to me that whether or not your announced policy, with which I do not disagree at all, is going to be effective will be determined by what the price of gasoline is in 1981. If the price of gasoline is $5 a gallon in 1981, another 10 cents isn't going to amount to a hill of beans in its effect on whether or not we have conservation.

I do not know whether you have really carefully thought that out. Ten cents relative to a dollar and a quarter a gallon is obviously going to have a lot bigger effect than 10 cents relative to $3 a gallon or whatever it might be. So, I think that the question of whether this is an effective tool to implement your policy is subject to a great deal of debate.

I would like to ask you the basis on which, or the documentation for the estimates you have made. The Congressional Budget Office says and this is based on current pricing, that we would save only 80,000 barrels a day in 1980 and only 90,000 in 1983. You contend that we would save 250,000 barrels in 1983.

I am curious just how you document and support your statements in contrast to the Congressional Budget Office.

Secretary Duncan. The price elasticity of gasoline we had assumed to be in the range of from 0.1 to 0.2, meaning that for a 10-percent increase in gasoline price there would be a 1- or 2-percent decrease in gasoline consumption.

Mr. Archer. Well, you are assuming——

Secretary Duncan. The belief of our department is now that we are at the upper end of that range. People can have varying opinions about that. I was interested to note that Mr. Charles DiBona, head of the American Petroleum Institute, noted in a press conference in New York last week that he had no dispute with the Department of Energy estimates on the conservation savings to be achieved by the fee.

I think we are showing that price elasticity in gasoline consumption is far higher than we had initially anticipated.

Mr. Archer. OK. Are you using the same elasticities from last year's experience, or are you projecting them on a considerably higher price per gallon, which is certain going to be the case after October 1981.

Secretary Duncan. I say it is a combination of both. I think the price is going to go up. The tax in the legislation that the administration will be proposing to the Congress will be in essence an ad valorem tax, so it will escalate with the rising price of gasoline.

Mr. Archer. So, it would not be just a 10 cents a gallon; it would be a percentage.

Secretary Duncan. That is correct. The initial proposal will be 14 cents, which is the existing 4 cents plus 10, and that would be applied on an ad valorem basis.

Mr. Archer. If you are forced to attempt to do it under the 232 provisions, if the entitlements provisions are not extended and you have to try to enforce it under 232, then you would have difficulty accomplishing that, wouldn't you; or is it your intention to attempt to do it through that method even if the Congress does not pass an ad valorem tax?

Mr. Coleman. As I indicated earlier, it is our view that, if the EPAA authorities do lapse, you could maintain the entitlements mechanism and you would have authority to enforce that under the Trade Expansion Act.

Mr. Archer. You would intend to do that on an ad valorem basis rather than just a 10 cent a gallon basis?

Mr. Coleman. Yes, the proposed tax would be calculated on an ad valorem basis. Whether any future fee imposed under section

232 is calculated on that basis would depend on the President's judgment that that action was appropriate to adjust imports.

Mr. ARCHER. Let me ask you quickly, if time permits, a couple of questions. Have you done studies on the impact of this program on the different regions of the country, the Northeast, the Southwest, the West, the South?

Secretary DUNCAN. We think we have to have a uniform tax applied across the Nation. This conservation fee, to add to the tax, is right. It is in the national interest.

Mr. ARCHER. My question is have you done any studies of its impact on the various regions. I know it is a uniform tax across the country.

Secretary DUNCAN. That would indicate there would be an option to have a tax in different regions of the country.

Mr. ARCHER. I am not suggesting that. I am just wondering if you have done any studies on what the impact of the uniform tax will be because, it seems to me, that every time the administration or the Congress does something in energy, it impacts adversely on the Southwest and it tends to be beneficial to the Northeast.

If you haven't done any studies, of course, you cannot comment on that. Have you done any studies of the impact of the program on various sectors of the economy, the taxicab industry, the trucking industry, and so on, the individual economic sectiors of the country?

Secretary DUNCAN. In the tax legislation that will be submitted, we are going to be proposing some exemptions from the tax for certain categories of activity. That is not possible in the conservation fee, of course. But, we do intend to do that in the tax that will be submitted.

Mr. ARCHER. Mr. Secretary——

Secretary DUNCAN. The overall level of price is going to be determined by things beyond our control. The overriding issue here is that you don't have control over the price of gasoline. What happens to the price of gasoline is determined by others. The best thing that we can do to get more control of that is to develop alternatives to gasoline and to get the price down.

The way to get the price down is by constraining demand both in this country and in overseas countries—to join together to constrain demand. So, you make your own assumptions about price levels. To have other conservation measures that are effective, as this one is, is just per se in our national interest because we have got to constrain consumption of petroleum, because at the margin that is foreign petroleum, and because the discretionary form of consumption is gasoline.

That is where you constrain consumption with the least detrimental economic impact.

Mr. ARCHER. Mr. Secretary, my time has expired. I thank you very much.

Mr. VANIK. Mr. Cotter.

Mr. COTTER. Thank you very much, Mr. Chairman. Mr. Secretary, it is good to have you today. I don't know anybody here who doesn't believe conservation is necessary. I think what the problem is is the method of conserving. Now, the Budget Office figures the savings will be 80,000 barrels a day and 90,000 in 1981. Now, your figures differ considerably from them.

Have you had the opportunity to look at the Congressional Budget Offices figures?

Secretary DUNCAN. I have not.

Mr. ROBINSON. We have not studied those in detail, but I may say that the 80,000 barrel-per-day figure that the Congressional Budget Office has for 1980 is not significantly different from our number. The difference is really a matter of the definition.

Our number is 100,000 barrels per day at the end of the first full year. We estimate that over the first year on average for the whole year it will be about 80,000. So, there is very little difference in that number. The difference between the 90,000 that they project for 1983 and our 250,000 has been described I think in two ways.

First of all, our 250,000 barrels per day assumes the tax measure the President is going to propose will have been enacted by that time. That tax measure would cover more products than just gasoline. It would cover diesel fuel and aviation gasoline as well.

The other difference is that we and, I think, most economists use a significantly higher elasticity factor over the course of a couple of years. Over the course of a couple of years people can take more steps to react to a higher price that they won't take in the first year, for example, purchasing a smaller automobile.

So, our elasticity number is considerably higher and obviously would yield a greater conservation number. In fact, we are quite surprised that the Congressional Budget Office would use such a low elasticity factor for 3 years because that is not in keeping with most economists.

Mr. COTTER. Haven't you had experience with the elasticity in the past year? We have seen the price go up 50 percent in the past year in gasoline, is this about correct?

Secretary DUNCAN. That's right.

Mr. COTTER. I think consumption nationwide is down about 8 percent.

Secretary DUNCAN. That's right.

Mr. COTTER. Now, does that jive with what your projections are for the savings?

Secretary DUNCAN. I think our numbers for the first year are conservative based upon what has happened over the past year.

Mr. COTTER. Well, look, has any consideration been given to rationing rather than rationing by price?

Secretary DUNCAN. We have given consideration to rationing.

Mr. COTTER. You know, if we are in a situation where we have to force conservation—and I cannot differ with you there—why not do it in a fair method where you ration the product? That way you can control the consumption of it. This way it won't impact upon the poor people. Hell, another 10 cents a gallon to a man making $50,000 a year or more is nothing.

Mr. VANIK. Would the gentleman yield? Can we put you down for rationing now?

Mr. COTTER. I would be inclined to go for rationing in preference to this. No question about it.

Secretary DUNCAN. I would like to make a comment if I could. There are some people who think that rationing in a traditional coupon system or some form of rationing system as you envision in your comment, is an alternative to price. I have a very strong view that it is not an alternative to price.

If you have a rationing system which involves the use of coupons and if you have a white market, where people who must have gasoline will have to go to that market in order to purchase coupons, if you equate that to a tax which is far less bureaucratic, which is far more equitable from the standpoint of the administration, to the extent that the tax works, the tax ultimately feeds back into the economy in the appropriate way.

Mr. COTTER. Yes, but it adds to inflation as well.

Secretary DUNCAN. The social impact, the economic impacts, and the cost impacts are not that dissimilar. I reject the notion personally that a rationing plan is an alternative to rationing by price. I don't believe that to be the case. I think the bureaucratic problems of administering a rationing plan are simply horrendous.

Mr. COTTER. There is no question about it, but——

Secretary DUNCAN. The cost savings are just not there. You know, when you think about several billions of dollars and 50,000 people and problems of equity and appeal procedures and boards and distribution of coupons and the banks for the coupons and the possibilities of fraud and abuse, I think the problems are just simply enormous. A right and properly constructed plan of taxes is less costly and accomplishes the same thing.

Mr. COTTER. Well, we were able to save fuel, oil, and gasoline in World War II by a rationing system. At least, it was a fair system in that everyone was assured his share and you budgeted yourself accordingly. I can see this is nothing more than an effort to balance the budget and come up with a surplus.

Secretary DUNCAN. I have talked to people who worked with the World War II plan. They have talked to me about serious problems of equity.

Mr. VANIK. Mr. Downey.

Mr. DOWNEY. Thank you, Mr. Chairman. Mr. Secretary, for the last 10 weeks in a row I have sponsored energy town meetings in every part of my district. Part of your testimony today is precisely what I have been trying to convince my constituents of and is the tremendous problem of our dependence on foreign oil. We differ rather substantially over how we should save that oil, however. It is there that I want to focus.

People are very angry. I am not sure that you understand that. You get a chance to see Congressmen, and they tell you. But, their anger and frustration level is the highest I have seen in the 10 years I have held elective office. It revolves basically around the high price of energy. I am a little concerned that our artful use of the English language allows us to equate brave leadership with higher prices. If that is the case, Mr. Secretary, I can assure you that I am a devout coward as are thousands of my constituents.

The people are very, very concerned on Long Island that we pay the highest price for gasoline in the Nation, more than $1.45 per gallon.

They also pay 99 cents per gallon for home heating oil. They understand that over time the price is going to have to go up, but they resent like hell the fact that the Government is going to force it up even higher when, in terms of real dollars, the amount of money allocated for mass transit this year is going down, that the administration hasn't been as forceful as the Canadians have in providing big pools of money to help people reinsulate their homes.

So, I think that there are a lot of ways that we must conserve. But, to force people to pay higher prices this way when they are going to be paying them over time anyway is probably unfair. Have you computed what the per barrel savings costs are for this plan? I mean how much per barrel are we going to pay to save that 250,000 barrels you mentioned?

I have estimates which show a $275 per barrel cost for this energy conservation. Is that correct?

Secretary DUNCAN. No, sir, that is not correct. We have projected that this tax will yield somewhere between $10 to $11 billion. You can divide the number of barrels that we have talked about—I haven't done that, but it would indicate, I am sure, the number you just recited.

But, that is not the point. The point is the price of oil is determined by the demand for oil in the world marketplace. That price is what determines what we are ultimately going to pay on Long Island or anywhere else in the United States. We are using 18 million barrels of oil per day. The issue is what actions can we take to get the price down on that 18 million barrels per day.

The answer is to develop alternatives and conservation. So, you cannot equate the tax revenue to the savings of 250,000 barrels a day. You have to look at what the price impact is on 18 million barrels per day.

Mr. DOWNEY. I understand when I ask these questions you are going to tell me this is a conservation measure. But, I am going to ask it anyway. If it is a conservation measure, why wasn't it 20 or 30 cents? Why wasn't it 50 cents? Under the theory, higher prices mean more conservation. Why couldn't it be much higher? Why shouldn't it be much higher?

Secretary DUNCAN. I cannot tell you whether it should be 9 or 11 cents or 50 cents as was talked about last fall in the press or other numbers. The thing that I can tell you is that this is a plan that can achieve this kind of savings, and this kind of savings at the margin, I think is terribly important. You know it is a judgmental issue. We have difficult economic conditions.

You just talked about what you heard in those town meetings. I understand that. I also understand that if you are trying to correct those problems, you have to get control on foreign imports. This is moving directly in that direction.

Mr. DOWNEY. Well, let me ask you with respect to inflation, 2 years ago the President removed what were then existing import fees on crude oil products to fight inflation. That was certainly a time when the President courageously spoke out on the need to control inflation. Well, inflation is even higher today. What impact does this plan have on inflation?

Secretary DUNCAN. This plan will have an impact we estimate in the months of May and June maybe one-half point in the CPI and as it works through the system, maybe a total of 0.75. But, that is short term.

If you say, what is the long-term impact on inflation, I think it is enormously beneficial to the extent that we can reduce the total price of all of that oil on which we depend. The issue is very simply this. There is a finite amount of oil in the world. New oil is not being discovered at a rate that is extending that amount at the present time.

The issue is, are we going to manage this transition or is it going to manage us? If we don't responsibility reduce our consumption, it will have dramatic national security and foreign policy implications as well as domestic economic implications.

Mr. **Downey**. Mr. Secretary, I make that speech and I appreciate it. I have another question I would like to ask. It appears as though this plan was designed more for a supply-tight situation where, for instance, the gasoline dealer and the refiner could pass on these costs to the consumer. Now, we have a situation going into this summer where there appears to be plenty of gasoline. If this causes competition among the retailers, isn't there a very good chance the 10 cent fee will not be passed along?

What is to prevent some of this import fee from being passed on through home heating oil where the supplies are not as elastic and demand is not as elastic? How are we going to prevent refiners from passing these costs along through other forms of fuel and thereby lessening any conservation incentive but increasing the cost of virtually everything?

Secretary **Duncan**. Basically because there is no economic incentive to do so. Right now you have a situation where the price of gasoline is controlled. We audit the oil companies. We know what they do. I think we are going to know precisely what they do—not only on gasoline—but we are going to monitor what they do on these other product categories as well, such as heating oil.

Mr. **Vanik**. Before we move on, I would just like to determine, Mr. Downey, as I take it are you for rationing as an alternative or are you for——

Mr. **Downey**. Well, if leadership means higher and higher prices, I suspect you are going to find very few leaders. I think one of the tragedies of this plan and of the way we address problems in this Congress and in this last year is that we haven't adequately addressed a whole host of other plans for conserving gasoline and home heating oil.

The administration believes that the only way people will conserve is if they are pounded over the head with higher prices. I reject that.

Mr. **Vanik**. Well, I am just trying to get a feel for how the committee membership feels about the issue as we go along.

Mr. **Downey**. Does the subcommittee have an authority to impose a rationing plan on the American people?

Mr. **Vanik**. I was wondering what the alternative might be.

Mr. **Downey**. That would certainly be a far preferable alternative to the vast majority of my constituents than paying higher prices for gasoline.

Mr. **Vanik**. I want to know how the members feel so we might have an evaluation and the administration might have some feeling as to how the committee feels on this legislation.

The Chair recognizes Mr. Moore.

Mr. MOORE. Thank you, Mr. Chairman. Mr. Secretary, I am very concerned that any time we start playing around with import fees and the regulations that come with them, we also seem to hurt the small dealer, the small refiner, and the small importer. They are the ones that cannot seem to keep up with this and cannot seem to assimulate these new changes like the Exxons and the larger oil companies can.

We have in force and effect now the Energy Petroleum Allocation Act which gives you the authority to try to ameliorate any of these inequities that are caused, or noncompetitive forces that are created, by act of your department or of the President dealing in the marketplace of oil and gas products.

Are you presently aware of the fact that already this oil import fee is causing some small and particularly independent dealers to have to absorb this 10 cent price increase; that the spot market prices, the minute the President announced it, began to escalate and as of right now they have already gone up that 10 cents a gallon; and are you using EPAA to ameliorate that?

Secretary DUNCAN. I will have to check the information, Mr. Moore, but it is my information, and I talked to Mr. DiBona, the head of the API yesterday on this point, that prices have not acted adversely. So, if that is not correct, I need to get myself better informed.

[The information follows:]

The spot market prices of gasoline at New York Harbor, based upon Platt's Oilgram Price Report estimates, were as follows:

(A) March 14, 1980: Premium, 92-93 cents/gal.; regular, 90.50-91 cents/gal.; unleaded, 91-92 cents/gal.

(B) April 22, 1980: Premium 99.50-101 cents/gal.; regular, 98.50-99 cents/gal.; unleaded, 98.50-100 cents/gal.

or an increase from March 14, 1980 to April 22, 1980 of: Premium, 7.50-8 cents/gal.; regular, 8-8 cents/gal.; unleaded, 7.50-8 cents/gal.

It should be noted that between March 1, 1980 and March 14, 1980, spot prices decreased. The March 1, 1980 spot prices were as follows: Premium, 97-98 cents/gal.; regular, 94-95 cents/gal.; unleaded, 94.50-95.50 cents/gal.

or an increase in the spot market from March 1, 1980 to April 22, 1980 of: Premium, 2.50-3 cents/gal.; regular, 4.50-4 cents/gal.; unleaded, 4-4.50 cents/gal.

Therefore, the March 14 spot prices appear to reflect a temporary aberration in the market. Discounting this aberration, spot market prices appear to have increased less than half the amount of the gasoline entitlements cost burden. There is no reason to believe that this increase was a result of the imposition of the gasoline conservation fee program. Numerous other cost and market factors could have caused such increases.

Secretary DUNCAN. I have also inquired as to what refinery runs are of gasoline. I have been told they have not been adversely impacted.

[The information follows:]

During the forty-nine (49) day period from March 1, 1980, through April 18, 1980, motor gasoline production has averaged 6,572 MB/B while motor gasoline supplied (demand) has averaged 6,534 MB/D. Thus, production has exceeded demand by approximately 0.6 percent during this period.

A further comparison of the data on gasoline production and supplied gasoline from the EIA Weekly Petroleum Status Report shows the following:

	Production (MMB/D)	Supplied (MMB/D)
January/February	7.1	6.6
Week ending Apr. 18, 1980	6.5	6.6

The data show that supplied gasoline (demand) has remained constant but that production has declined by approximately 0.6 MMB/D. An explanation of this reduction may be found in the EIA weekly data for gasoline stocks (see attachments). The figures for the week ending April 18, 1980 show that gasoline stocks reached 283.0 million barrels, up almost 20 percent from the beginning of the year and about 10 percent higher than the highest April stock levels of the past three years. This is an indication that refiners may be reaching the limit of their storage capacities and have cut back on runs to deal with the problem. In addition, gasoline production is typically reduced slightly in March and April as refiners perform scheduled maintenance.

MOTOR GASOLINE STOCKS BY REGION [1]

[Millions of barrels]

	East coast	Midwest	Gulf coast	Rocky Mountain	West coast	Total U.S. [2]
1977						
January	64.6	73.0	73.0	9.7	32.4	252.6
February	61.9	75.9	75.3	10.6	31.8	255.5
March	71.6	79.9	68.0	11.4	31.3	262.1
April	73.3	80.2	64.8	10.9	29.6	258.8
May	74.1	79.4	68.7	10.6	29.7	262.5
June	72.0	74.6	70.5	9.7	29.6	256.4
July	68.4	75.5	76.4	8.8	29.1	258.2
August	67.7	83.2	70.8	7.5	27.8	256.9
September	69.0	81.6	70.7	7.2	27.2	255.9
October	65.3	80.3	75.4	7.3	26.9	255.2
November	64.7	85.1	72.1	8.3	28.3	258.5
December	65.6	83.1	71.8	9.3	27.7	257.6
1978						
January	73.4	84.8	75.9	10.4	27.6	272.1
February	67.8	84.1	81.3	11.2	26.5	270.8
March	68.8	79.6	75.9	11.1	24.2	259.6
April	69.6	77.4	65.9	10.8	25.1	248.9
May	64.2	73.1	62.9	9.5	23.8	235.5
June	59.0	65.2	63.1	7.9	24.3	219.4
July	58.2	64.6	60.7	6.7	26.2	216.4
August	55.6	62.9	60.3	5.3	24.9	209.0
September	57.4	65.8	62.7	5.2	25.5	216.5
October	57.7	63.6	62.7	5.3	24.4	213.7
November	59.1	66.0	63.6	6.3	25.5	220.3
December	63.0	73.1	65.7	7.2	28.9	238.0
1979						
January	64.5	79.7	73.5	7.5	30.4	255.7
February	61.8	79.7	72.6	8.4	28.9	251.3
March	62.7	77.6	63.5	9.2	26.1	239.2
April	64.5	75.6	60.6	9.4	25.1	235.2
May	63.8	71.1	57.9	8.9	25.5	227.2
June	64.7	68.2	62.4	7.9	26.1	229.3
July	72.6	71.8	63.1	7.3	26.7	241.5
August	67.4	67.8	65.1	6.4	26.1	232.7
September	62.4	69.7	66.3	6.1	25.6	229.9
October	59.2	66.0	62.2	5.7	25.0	218.1
November	57.8	« 68.6	61.5	6.5	26.2	220.6
December	61.6	74.5	64.3	7.2	29.1	236.7
Week ending:						
Jan. 4	63.8	75.4	64.4	7.5	26.8	237.9
Jan. 11	63.8	78.2	64.4	8.0	27.1	241.6
Jan. 18	63.3	80.2	65.1	7.9	27.7	244.1
Jan. 25	66.1	82.4	67.6	8.2	27.6	251.8
Feb. 1	69.6	83.9	68.1	8.6	28.8	259.0

MOTOR GASOLINE STOCKS BY REGION [1]—Continued

[Millions of barrels]

	East coast	Midwest	Gulf coast	Rocky Mountain	West coast	Total U.S. [2]
Feb. 8	70.5	83.2	69.3	8.8	28.5	260.4
Feb. 15	73.4	85.0	73.6	9.0	28.0	269.1
Feb. 22	74.0	86.7	73.6	9.3	28.4	272.0
Feb. 29	75.3	87.1	74.0	8.9	29.6	275.1

[R] EIA revisions.

[1] Regions are Petroleum Administration for Defense Districts (PADD).

[2] PADD Data may not add to total due to independent rounding.

Source: 1977–78 totals—EIA, "Petroleum Statement, Annual (Final Summary)"; 1977–78 regional data—Unpublished EIA data; January–October 1979—EIA, "Petroleum Statement, Monthly"; November–December 1979—EIA, "Monthly Petroleum Statistics Report"; Jan. 4, 1980—Current week—EIA weekly data.

MOTOR GASOLINE STOCKS BY REGION [1]

[Millions of barrels]

	East coast	Midwest	Gulf coast	Rocky Mountain	West coast	Total U.S. [2]
1978:						
January	73.4	84.8	75.9	10.4	27.6	272.1
February	67.8	84.1	81.3	11.2	26.5	270.8
March	68.8	79.6	75.9	11.1	24.2	259.6
April	69.6	77.4	65.9	10.8	25.1	248.9
May	64.2	73.1	62.9	9.5	23.8	235.5
June	59.0	65.2	63.1	7.9	24.3	219.4
July	58.2	64.6	60.7	6.7	26.2	216.4
August	55.6	62.9	60.3	5.3	24.9	209.0
September	57.4	65.9	62.7	5.2	25.5	216.5
October	57.7	63.6	62.7	5.3	24.4	213.7
November	59.1	66.0	63.6	6.3	25.5	220.3
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March	62.7	77.6	63.5	9.2	26.1	239.2
April	64.5	75.6	60.6	9.4	25.1	235.2
May	63.8	71.1	57.9	8.9	25.5	227.2
June	64.7	68.2	62.4	7.9	26.1	229.3
July	72.6	71.8	63.1	7.3	26.7	241.5
August	67.4	67.8	65.1	6.4	26.1	232.7
September	62.4	69.7	66.3	6.1	25.6	229.9
October	59.2	66.0	62.2	5.7	25.0	218.1
November	57.6	68.6	51.4	6.6	26.4	220.5
December	61.6	74.5	64.3	7.2	29.1	236.7
1980:						
January	70.1	83.1	69.8	8.8	30.2	262.1
February	74.5	85.0	73.7	9.3	31.4	273.9
March						
April						
May						
June						
July						
August						
September						
October						
November						
December						
Week ending:						
Mar. 7	76.6	85.9	75.4	9.1	29.5	276.5
Mar. 14	72.8	87.4	80.4	9.6	29.8	280.0
Mar. 21	71.8	88.1	82.5	9.6	30.7	282.8
Mar. 28	71.9	88.2	81.1	9.8	27.7	278.8

MOTOR GASOLINE STOCKS BY REGION [1]—Continued

[Millions of barrels]

	East coast	Midwest	Gulf coast	Rocky Mountain	West coast	Total U.S. [2]
Apr. 4	75.7	88.3	78.4	9.3	28.1	279.9
Apr. 11	[R] 75.1	[R] 88.2	[R] 79.9	[R] 9.7	26.9	[R] 279.7
Apr. 18	78.1	89.6	78.0	9.6	27.7	283.0

[R] EIA revisions.

[1] Regions are Petroleum Administration for Defense Districts (PADD).

[2] PADD Data may not add to total due to independent rounding.

Source: 1978 totals—EIA, "Petroleum Statement, Annual (Final Summary)"; 1978 regional data—Unpublished EIA data; January–November 1979—EIA, "Petroleum Statement, Monthly"; December 1979–February 1980—EIA, "Monthly Petroleum Statistics Report"; Mar. 7, 1980—Current week—EIA weekly data.

Motor Gasoline Supplied and Production
(Millions of Barrels per Day)

	1977			1978			1979		
	Total Motor Gasoline Supplied	Unleaded Gasoline Supplied	Production	Total Motor Gasoline Supplied	Unleaded Gasoline Supplied	Production	Total Motor Gasoline Supplied	Unleaded Gasoline Supplied	Production
Jan	6.5	1.5	6.9	6.7	2.1	6.9	6.9	2.6	7.3
Feb	6.9	1.8	6.8	6.9	2.2	6.6	7.3	2.7	6.9
Mar	6.9	1.7	6.9	7.3	2.4	6.8	7.2	2.7	6.7
Apr	7.3	1.9	7.0	7.2	2.6	6.7	7.1	2.8	6.8
May	7.0	1.8	6.9	7.7	2.3	7.1	7.2	2.8	6.8
Jun	7.6	2.1	7.1	7.9	2.7	7.2	7.2	2.8	7.0
Jul	7.4	2.1	7.2	7.6	2.6	7.3	6.9	2.8	7.0
Aug	7.6	2.1	7.2	7.9	2.8	7.5	7.3	3.0	6.9
Sep	7.3	2.1	7.1	7.4	2.6	7.4	6.8	2.8	6.6
Oct	7.1	2.1	6.9	7.5	2.6	7.2	7.0	2.8	6.5
Nov	7.2	2.1	7.1	7.5	2.7	7.6	6.8	2.9	6.7
Dec	7.4	2.4	7.1	7.5	2.8	7.8	6.7	2.9	7.0

4-week average for Period Ending:	Total Motor Gasoline Supplied	Production
Jan 4, 1980	6.5	7.1
Jan 11, 1980	6.7	7.2
Jan 18, 1980	6.8	7.2
Jan 25, 1980	6.7	7.2
Feb 1, 1980	6.6	7.2
Feb 8, 1980	6.6	7.1
Feb 15, 1980	6.4	7.1
Feb 22, 1980	6.6	7.2
Feb 29, 1980	6.7	7.1

SOURCE:
- 1977 - 1978: EIA, "Petroleum Statement, Annual (Final Summary)"
- January - October 1979: EIA, "Petroleum Statement, Monthly"
- November - December 1979: EIA, "Monthly Petroleum Statistics Report"
- Four-week averages: EIA estimates based on EIA weekly data for stocks and production and API weekly data for imports

Motor Gasoline Supplied and Production
(Millions of Barrels per Day)

	1978			1979			1980		
	Total Motor Gasoline Supplied	Unleaded Gasoline Supplied	Production	Total Motor Gasoline Supplied	Unleaded Gasoline Supplied	Production	Total Motor Gasoline Supplied	Unleaded Gasoline Supplied	Production
Jan	6.7	2.1	6.9	6.9	2.6	7.3	6.3	2.9	7.0
Feb	6.9	2.2	6.6	7.3	2.7	6.9	6.6	3.0	6.9
Mar	7.2	2.4	6.8	7.2	2.7	6.7			
Apr	7.2	2.4	6.7	7.1	2.8	6.6			
May	7.7	2.3	7.1	7.2	2.8	6.8			
Jun	7.8	2.7	7.2	7.2	2.8	7.0			
Jul	7.6	2.4	7.3	6.9	2.8	7.0			
Aug	7.9	2.8	7.3	7.3	3.0	6.9			
Sep	7.4	2.6	7.4	6.8	2.8	6.6			
Oct	7.5	2.6	7.2	7.0	2.8	6.3			
Nov	7.3	2.7	7.6	6.6	2.9	6.7			
Dec	7.5	2.8	7.8	6.7	2.9	7.0			

4-week average for Period Ending:	Total Motor Gasoline Supplied	Production
Mar 7, 1980	6.7	7.1
Mar 14, 1980	6.8	7.0
Mar 21, 1980	6.7	6.8
Mar 28, 1980	6.6	6.6
Apr 4, 1980	6.4	6.5
Apr 11, 1980	6.7	6.6
Apr 18, 1980	6.6	6.3

SOURCE:
- 1978: EIA, "Petroleum Statement, Annual (Final Summary)"
- January - November 1979: EIA, "Petroleum Statement, Monthly"
- December 1979 - February 1980: EIA, "Monthly Petroleum Statistics Report"
- Four-week averages: EIA estimates based on EIA weekly data for stocks and production and API weekly data for imports

Secretary DUNCAN. I tried to determine exactly what had been the negative impacts, if there were any, of the fact that this fee has been imposed since March 15, and I was told that there were none. I have been visiting rather continuously with people from the industry, both large and small. One thing we tried to do was to manage the cash flow impacts of the fee so there would be no adverse cash flow impacts, with the intent of trying to help the people in the industry.

Mr. MOORE. I suggest you talk to people on my staff because some of the people we are getting are not API, they do real well in working Exxon and others, but maybe High-Low and Red Head and Husky and some of the smaller outfits don't have a pipeline.

Secretary DUNCAN. I will talk to people on your staff and develop that because I try always to talk to a broad cross section.

Mr. MOORE. We are finding already in the spot markets, as of April 22, prices are 9.1 cents a gallon higher than the spot market was the day the President announced this oil import fee. So, it has already been reflected on the spot market. These individuals buying gasoline on the spot market are having to then increase that gasoline price today or they are put in a noncompetitive position with the Exxons of the world who may be shifting that 10 cents a gallon somewhere else.

So, basically you have put the small people in a noncompetitive position, which is what is happening with recession in this country. The small independents cannot compete with Exxons, Arco, Texaco, Sohio, and the others who are able to absorb that fee or shift it to something else like a lube cost or motor oils or whatever. We are finding that right now in gasoline.

I am being told likewise it is going upstream to the small refiner who produces just gasoline. He has to pass that directly on, whereas we have other refiners that are making other products and there is no way you are ever going to find out if they only put 5 cents on gasoline and took the other 5 cents and put it in chemicals or spray cans or the other many products they make. The same thing is true with the small importer. He has to put up all sorts of bonds and this and that and the other to cover the cost of this fee, whereas the large importer, the one with a good credit rating, may not have to do that.

Consequently, he may not have the same difficulty in passing on the cost as do the small importers. But, we are seeing already that this import fee is causing disruptions in the marketplace for small importers, refiners, and retailers. You have the power under EPAA to ameliorate that. If we didn't have the import fee, we wouldn't be faced with that problem. But, we are expecting you to do something to prevent this dislocation from taking place.

Secretary DUNCAN. I will look into that. I will talk to some of the people on your staff to find out more about that.

[The following was subsequently received:]

Proclamation 4744, as amended, requires the prepayment of fees or posting of a surety bond or other security acceptable to the Secretary of Energy in order to obtain an import license subject of fees. Allowing forms of security other than surety bonds was included to foster competition in the surety industry and to provide for an alternative means of posting security which may be more economical for certain importers. To further ease the cost of surety bonds or other security which have been posted for the amount chargeable under the license, provision has been made to permit any applicant who has made timely payment for 12 months of any fees imposed pursuant to this or any previous import fee proclamations to post bonds or other acceptable security for only fifty percent (50 percent) of the total amount chargeable. This provision applies to all importers, regardless of size.

Finally, Proclamation 4744 was recently amended to allow the Secretary to grant exception relief to the security requirement where appropriate to relieve an undue hardship. One refiner has been successful in demonstrating such exceptional circumstances and has been granted a reduced security requirement.

Secretary DUNCAN. Except for the retailer, the middle man or anyone buying gasoline has to work from an average inventory cost. In the case of the retailer, it is the final purchase.

So, there will be no incentive I can think of for those people to try to do that.

Mr. MOORE. The incentive is in the marketplace. We now have plenty of gasoline, the stations are being open now around the clock——

Secretary DUNCAN. Except that gasoline prices are controlled. The inventory cost, except for the retailer, is an average cost.

Mr. MOORE. But, the point is if you want to get the business and you are a small gasoline station, you may not want to pass on that 10 cents a gallon if the Exxon station across the street is holding the line on his price, or only increasing his price 3 cents, as a result of the import fee and is passing the rest along on additional services that the little independent across the street cannot do.

That is where the system breaks down. As Mr. Shannon pointed out, you have no way to trace that or keep up with that.

Mr. ROBINSON. The 10 cents is in our judgment almost certainly going to be passed through equally by everyone for the simple reasons——

Mr. MOORE. I have your word for that, but that is not what is happening.

Mr. ROBINSON. No, simply because it is imposed equally and is locked on the entire industry——

Mr. MOORE. No, that is where you are wrong. Everybody may have to buy the gasoline but, first of all, do you know what Exxon is selling their gasoline in the company stations for right now? Are they passing that 10 cents along in the gasoline price?

Mr. ROBINSON. They are currently not allowed to pass it through. No firm is allowed to pass it along until the 15th of May.

Mr. MOORE. But, the spot market is up 10 cents.

Mr. ROBINSON. There are many reasons why gasoline prices may have gone up 10 cents. There are other costs that are increasing.

Mr. MOORE. The most obvious is the oil import fee. It went up almost the exact amount.

Mr. ROBINSON. Well, it is possible someone is passing it through, but in fact, it is unlawful if they are passing it through. Over the course of the past year or so gasoline prices have been steadily increasing and the 10 cents could simply reflect that fact.

Mr. MOORE. As Mr. Shannon points out, I don't see a mechanism you have that prevents a refiner who refines many products from shifting part of this import fee on those products and part on gasoline to keep his company's stations more competitive than the small stations who have to put the whole 10 cents a gallon on the gasoline, or they just eat part of it to stay competitive in the marketplace.

Mr. VANIK. The time of the gentleman has expired. I want to state at this point the Library of Congress has made available to us this morning an analysis of the President's oil import program and I would like to make this report and an earlier report analyzing the legal features of this program a part of the record if there is no objection.

That report has been entered in the record.

But, quoting from the report, the report says on the issue raised by our distinguished colleague, "It is probable that refiners, jobbers, and dealers may absorb significant portions of the fee during 1980 and perhaps early 1981 as well. They may be able to do this because refiner jobber gross margins, not necessarily profits, have risen 140 percent during the past 15 months and gasoline dealer margins have nearly doubled."

Mr. MOORE. I appreciate that. The problem is there is nothing in these regulations to prevent a refiner of many products from passing the fee on to other products. If you want to maintain a competitive edge in the marketplace, Exxon will shift a little on motor oil, a little on plastic. Some poor character like Husky gasoline has to pass the whole 10 cents along on gasoline. That is not fair to the marketplace and is being perpetrated by the import fee.

Mr. VANIK. We can probably hear from Husky at the appropriate time.

I want to say further that report I referred to is requested for the Congress by Chairman Dingell of the Interstate and Foreign Commerce Committee.

The Chair now recognizes Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman. Mr. Secretary, first of all, I want to tell you that I appreciate your forthright statement and the position of the administration. I understand the difficulties with a rationing plan even though I advocated one a year ago and got hit over the head as the result of it throughout my district.

However, while I prefer an allocation plan with all of its difficulties, I do believe that the administration is correct in bringing the Congress this particular proposal because I think ultimately we will have to choose between economic rationing, with which the administration is obviously proceeding, or an allocation rationing program such as that used in World War II. I am sure that if you advocated the gas rationing concept, there would be just as many complaints about that as there are about a tax program.

What many of us forget I think is that Israel and the European countries pay the same amount that we pay for crude oil. They buy it from the same place. The only difference is they do tax it substantially because they have followed that type of conservation program. So, you do have a great deal of precedent. I think the experience of those countries indicates that they have been able to conserve.

I don't think there is any question but that we would get some conservation with this tax. My only problem is that I don't know how high the tax would ultimately have to go in order to reach the conservation figures that we must reach in the next 5 to 10 years.

Let me ask you this. I am concerned a little about the legal aspect that was raised by Mr. Shannon. I know the department has researched it. You are depending upon two particular acts. The

Trade Expansion Act and the EPAA for the authority that the President has. Have these two acts in the past ever been coupled together as they are for this proclamation?

Mr. **Coleman**. I don't believe so.

Mr. **Robinson**. The only thing I might mention is that in 1975 when President Ford imposed a $2 supplemental import fee on crude oil and products, the $2 fee was counted as part of the cost of imported crude oil and, therefore, was shifted amongst all refiners in the country under the present and then existing crude oil entitlement program.

So, there was a coupling of the two programs in the sense that the EPAA program did shift the cost of the fee from importers of crude oil to all refiners in the country.

Mr. **Jenkins**. Was that contested in the courts?

Mr. **Coleman**. The import fee was contested.

Mr. **Jenkins**. Is that the *Algonquin* case?

Mr. **Coleman**. Yes, that is the *Algonquin* case and the Supreme Court sustained its legality as you know.

Mr. **Robinson**. It was almost at the same time that that fee was imposed that the entitlements program came into existence, and the entitlements program was very heavily litigated by almost every major oil company in the country. The lawsuits ran parallel, but as I recall, there was never an issue raised in either set of lawsuits on either of the two programs that dealt with the legal issue of coupling the two programs together.

Mr. **Jenkins**. So, you have legal precedent as far as the import fee is concerned, but you do not have a court decision where the entitlements and import fee provisions are coupled together under two particular acts, is that correct?

Mr. **Coleman**. That's correct.

Mr. **Jenkins**. I am concerned about the questions raised by Mr. Moore indicating that some companies might be able to divert the cost of this fee to products other than gasoline. I would appreciate your sending me any information that you provide to Mr. Moore so that I can be assured that is not going to occur.

Secretary **Duncan**. We will do that, Mr. Jenkins.

[The information follows:]

Proclamation 4744, as amended, requires the prepayment of fees or posting of a surety bond or other security acceptable to the Secretary of Energy in order to obtain an import license subject of fees. Allowing forms of security other than surety bonds was included to foster competition in the surety industry and to provide for an alternative means of posting security which may be more economical for certain importers. To further ease the cost of surety bonds or other security which have been posted for the amount chargeable under the license, provision has been made to permit any applicant who has made timely payment for 12 months of any fees imposed pursuant to this or any previous import fee proclamations to post bonds or other acceptable security for only fifty percent (50 percent) of the total amount chargeable. This provision applies to all importers, regardless of size.

Finally, Proclamation 4744 was recently amended to allow the Secretary to grant exception relief to the security requirement where appropriate to relieve an undue hardship. One refiner has been successful in demonstrating such exceptional circumstances and has been granted a reduced security requirement.

Mr. **Jenkins**. Thank you, Mr. Chairman.

Mr. **Vanik**. Thank you very much. The Chair recognizes Mr. Markey.

Mr. **Markey**. Thank you. I thank you for the invitation for the Commerce Committee members to be able to participate in the hearing this morning. I think it is very important. Welcome, Mr. Secretary. I agree with you. I think we ought to be discussing the broader policy questions here today. I think that is what we ought to get back to, the real underlying justification for the imposition of this fee.

Mr. Secretary, do you know what 100,000 barrels a day divided into $10 billion is? Can you do that arithmetic on that?

Secretary **Duncan**. Yes, I can.

Mr. **Markey**. I will help you out. It comes out to $275 a barrel. Your own efficiency analysis of various segments of the economy that could have an injection of funds to improve energy efficiency in this country, in your own White House fact sheet on import reduction last year in comparing it to the gasoline conservation fee, for example, the residential conservation savings outlined in the President's July 16, 1979, energy program indicates that you could get a 500,000 barrel a day savings at a cost of $2 billion, with your own quotes now, "an average cost estimated to be below $10 per barrel."

You have it in the Conservation Bank. We don't have any direct grants for residential conservation. The low-income weatherization program has been level funded for the last 4 years. We don't have a program for energy efficient programs in the States and local communities with Federal funding to help them in their planning.

We don't have a national Federal energy conservation program. Yet, too, it seems to me with your background as a businessman that if you made a cost-benefit analysis of the conservation dollars that we have in this country to spend and you had $10 billion in your hand and you looked at this not as a tax expenditure but as an appropriation—and we are trying to come in here and justify this $10 billion appropriation as a way of inducing 100,000 barrels worth of conservation—that it would just be laughed out of here.

My contention is that when we strip away all the folderall of conservation is that this really isn't a conservation bill at all. It is a taxation bill. It is a balance the budget bill. It is an attempt to get that additional revenues you need to balance the budget this year.

While we offer up the Conservation Bank and residential programs and the strategic petroleum reserve and solar bank and all the other long-term programs we need to make ourselves energy independent, we simultaneously are going to take one of the last efficient expenditures of the limited amount of discretionary dollars that we have left in our economy and we are going to pour it into a program that is going to give us back 100,000 barrels a day.

I think, Mr. Secretary, that you ought not to be called the Secretary of Energy today. You ought to be called the Secretary of Taxation because that is what you are. You are in here asking us for a tax bill. That is all it is. It is nothing more than that. It is an attempt at general revenue raising and justifying it under some shibboleth of conservation to defend a policy which, in no way, can be justified when weighed against the other areas of the American economy that can give us much greater efficiency.

The Constitution, article I, section VII reads that, "All bills for raising revenue shall originate in the House of Representatives." I think this is just a straight tax bill. I don't think it is a conservation bill at all. I think this is just a clear attempt, when coupled with the very obvious actions by the administration in gutting the other programs which can give us the long-term energy independence which we need, that we just see a clear pattern of an attempt in an election year to balance the budget, balancing the budget on the backs of people who can ill afford this increased cost on their gasoline or home heating oil, which I think is just as likely; and an additional injection into the economy of another inflationary factor which will continue to drain money out of the pockets of the average working class people in this country.

Have you done a cost-benefit analysis of the expenditures of $10 billion and the most efficacious return that we can get on the investment of that money?

Secretary **DUNCAN**. Not precisely on $10 billion, no. But, I would say I disagree with almost everything you said.

Mr. **MARKEY**. I am sure you do.

Secretary **DUNCAN**. I would like to make a couple of comments on it if I could. First, the exercise of balancing the budget was a very difficult exercise as everyone knows. It wasn't an easy thing to do in an election year. The President did it because he thought it was necessary.

Second, this administration has moved extremely aggressively in the area of conservation. I think we are emphasizing conservation to a greater extent than it ever has been emphasized by any administration ever.

Third, I reject your equating of $10 or $11 billion in revenue to 100,000 barrels a day; I think that is a patently incorrect assumption. What you have to do is not look at that revenue against those barrels, but rather to ask what is the effect on the long-range economy of this Nation, what are you doing to get down the price of the 18 million barrels of oil that we use, what are you doing in a national security sense, in a foreign relations sense, in an economic sense?

Not doing the things that we should have done in the past is part of the economic, national security, and other problems that we have today. We have no alternative but to move to reduce petroleum consumption in its most discretionary form—in the form which least impacts our economy. That is gasoline. The way to do it today, right now, the first year, is to conserve gasoline. Many of the numbers you talked about a moment ago were 1990 numbers. We must have a broad mix of programs.

You will find nobody who is more interested in aggressive conservation than I. I think it is the most cost effective thing we can do. I think it is the most immediate thing to do between now and 1985.

Mr. **MARKEY**. Well, last fall you rejected this. Your department rejected this as a conservation technique.

Secretary **DUNCAN**. To take that argument and say that means we don't have to conserve gasoline is patently fallacious, in my view.

Mr. **MARKEY**. Last year your department rejected this as a conservation strategy. You said in your own administration, "It was not an effective way to reduce consumption."

Mr. Chairman, I support gasoline rationing. I support direct grants to residential and commercial and industrial sectors of this economy. I support direct grants to States and local communities so they can begin to increase their energy efficiency. I support a conservation bank. I support having the strategic petroleum reserve. I support having some real strategies with real teeth in it that show some real leadership in this country in giving the kind of courage leadership we need. But, this kind of proposal which demonstrates clearly, as it has in the past, the continued bankruptcy of a policy that has shown no real meaningful reduction in the consumption in the country is begging the question in an election year.

We are like the grasshopper who fiddled all summer and, in the winter, when the food ran out, he is without any supplies. We indeed are going to be in that position. We will not have taken the really tough, strong positions which we should have in anticipation, and we wind up with the Secretary of Energy in here really as nothing more than a surrogate for the Secretary of the Treasury to generate revenues that will in no way whatsoever have any significant impact in backing out that 2.7 million barrels of oil from the Persian Gulf that we import into this country every day.

That is what we are talking about. That is the tension and the pressure that we put on our society every day. We need immediate, tough leadership from the administration to back that oil out. And this bill, to paraphrase another person in public like, is nothing but a fig leaf to disguise a program which will have absolutely no real impact on the importation of oil.

Mr. **Vanik**. The time is up. Chairman Ullman.

Mr. **Ullman**. Mr. Chairman, I certainly empathize with the problem of the administration. Everyone has a different idea. But no matter which idea you come up with, it is shot down by someone. You have chosen one, and I commend you for the courage to do that.

It seems to me you had three basic alternatives. One was to go directly to a gasoline tax, which, I think everyone admits, would be a much simpler and more directly way of accomplishing exactly what you want to accomplish. The second way is the import fee mechanism you recommended. A third would be a speed-up of decontrol, which, I understand, could be accommodated toward the gasoline side.

Let me say that I have some problems with the concept you have chosen because of the mechanism. I think there are some very serious problems in attempting to weight this towards gasoline. I think the legal authority is somewhat marginal and I think even when you surmount that problem that there is no way that you can pin it down to gasoline. I think that the refiners would almost certainly have to have some leeway. So I have some problems with the mechanism. But why is it that you have not taken the gasoline tax route?

Secretary **Duncan**. The thing we did, Chairman Ullman, was really to take a combination of the import fee and the tax. The one that the President had the authority to implement immediately was the conservation fee allocated to gasoline.

Now, on the speed-up of decontrol allocated to gasoline, it is my sense that the President might not have that authority. He felt that he did have the authority to levy the import fee and to allocate that against gasoline.

Now, the gasoline tax is what we propose to ask the Congress for. Hopefully sometime prior to September 30, 1981, we will be in the position of having legislation which would authorize the tax.

When the President announced the fee, he said the fee is temporary and will remain in effect only until such time as appropriate legislation could be enacted respecting a gasoline tax.

On the matter, too, Mr. Chairman, of the enforcement mechanism, I have inquired as to what is the experience in other countries—for example, West Germany, where, I understand, the tax is levied at the refinery. I have been told they have been able to manage that quite well.

I don't think there is any economic incentive attributable to this program that might cause a refiner to want to levy it against other products. I think, too, with the audit procedures and with the monitoring that we will be doing, that we will know it and that the refiners will know we will know it if there is any misallocation of the fee.

Mr. ULLMAN. Why is it that you think you don't have the authority, that the President doesn't have the authority, to move on a speed-up of decontrol?

Secretary DUNCAN. I think he does on decontrol. My only question was the allocation of that against gasoline.

Doug, would you comment on that? I think he does have the authority to move with the acceleration of decontrol. You would have to examine the inflationary consequences of that action against the thing that we are proposing. But it is the allocation of the price margin increase attributable to decontrol against gasoline about which I am not certain.

Mr. ULLMAN. I don't know why the inflationary impact of one would be different from the other.

Secretary DUNCAN. Because if you decontrol, that means that the price in all segments would move up. Things like petrochemical feedstocks, home heating oil, things like that, would move up, and that is not discretionary consumption. Gasoline is where we have discretionary consumption.

Mr. ULLMAN. It was my feeling that you had more legal authority to move that decontrol entirely on gasoline than you had authority to do what you are trying to do.

Mr. ROBINSON. There would be considerable difficulties; there doesn't seem to me that there is a way we could take the additional cost increases resulting from decontrol and shift them to gasoline, one of the objectives of this program, since gasoline is the most discretionary fuel.

In addition to that, if we accelerate decontrol by an amount having an equivalent effect on gasoline prices, assuming we can shift it to gasoline, one difference between that measure and the import fee is that a substantial amount of the increased prices of gasoline would be returned to the oil companies in the form of increased profits. A portion of it would be caught by the windfall profits tax, but not all of it.

Under the new measure, the price goes up but the oil companies do not reap any of the benefits of that price increase.

Mr. ULLMAN. Except that there is going to be another major tax benefit through the regular corporate income taxes that they pay. And that is going to be a very significant amount of revenue that is going to be achieved in the process of decontrol.

I have grave doubts—and I hate to express this—I have grave doubts whether you will be able to survive the test in the Congress on your continuing authority to do this. I think there is no question but there is going to be tremendous pressure to relieve the President of this authority and it may be significant enough to override a veto. It is going to be a very, very tough thing to do.

The reason I suggested the decontrol mechanism—and I hope that you will look into it—is that you may not survive the test in the Congress that will give you the authority to take this route.

The gasoline tax is also a problem; getting enough votes in an election year is a very tough thing to do. But I think there is no question in the world that it is by far the most direct way of accomplishing what you are trying to accomplish. Is that not right?

Secretary DUNCAN. As I say, we will look into that, Mr. Chairman, and we will do some analysis on the points you make and I will get back to you and give you the benefit of that analyses.

Mr. ULLMAN. I am suggesting it because I think that the route you are taking—and I think it has been pretty well evidenced this morning by the kind of questions you received—is going to be subject to a broadside attack on the part of the Congress. I would like to support it but my support is going to be based somewhat on your further testimony to us as to the effectiveness and the legality of the method of putting this on gasoline alone through the President's program.

I am afraid it may involve considerable additional bureaucratic effort and additional bureaucracy, but perhaps also a great deal of legal challenge. If there is another way of doing it, such as the decontrol mechanism, it might be a far more preferable way to do it to avoid the long controversy that would develop in the Congress.

Mr. VANIK. Mr. Jones.

Mr. JONES. Thank you, Mr. Chairman. Mr. Secretary, welcome to the committee. I have been somewhat amused at the line of questioning today. It reminds me a little of this whole process of balancing the budget, where everybody comes to us and says: "Yes, let us balance the budget but don't cut my program." That is sort of the way it is with energy conservation.

I think there is a consensus on energy policy if not unanimous agreement, that in the next few perilous years the most important thing we can do is to conserve. But I would venture to say that, if it were left to a majority of Congress to promulgate a program to have meaningful conservation, we could not muster a majority for any substantial conservation program.

I have just returned from a trip to Asia. The price of gasoline in Korea is $4.50 a gallon. Now, certainly that is not what we are recommending here. But those nations which are genuinely concerned about the supply of energy have taken much more stringent measures than has the United States.

Now my first question, Mr. Secretary, is: If the Congress takes away the authority of the administration for the oil import fee, what is likely to be the next conservation effort recommended by the administration?

Secretary **DUNCAN**. When you say, "What is the next conservation effort recommended by the administration?" of course, we have many conservation recommendations.

Mr. **JONES**. I would agree with Chairman Ullman that you basically had three: rationing, oil import fee, and rapid decontrol. So, that leaves rapid decontrol and rationing?

Secretary **DUNCAN**. Right. We would analyze the suggestion made by Chairman Ullman, as I indicated to Chairman Ullman. My guess would be—I would not speak for the administration on this; this is just my personal view—that we would probably either do that or go for the gasoline tax.

The reason for doing it as the President did it—and he did it, I emphasized, independently of balancing the budget; he balanced the budget first and said, now, in addition, we need to conserve gasoline—is that this is something that we felt we could move immediately on and it imperatively is in our national interest that we do so.

Mr. **JONES**. I would suggest that, if you are relying on Congress to take any of these measures, you forget it. And if this authority is taken away from the administration, I would strongly underscore what the chairman has suggested: That you use rapid decontrol as the method of doing it.

You will not be able to pass a gasoline tax in my judgment; you will not be able to pass a rationing program in my judgment. And I do think something needs to be done in the area of conservation.

Let me also clarify the record to see if I understand this correctly. In answer to previous questions as to whether or not you have done studies on the regional impact or the sectoral impact of this program, I believe that your answer was: No, you did not have any indepth studies.

I would suggest to the administration that the regional impact be studied and reported, the same for certain sectoral impacts, such as automobiles, for example. I believe the CBO estimates that demand for automobiles in 1980 would be reduced by about 150,000-plus units under the President's plan. I assume you don't have anything to refute that or to comment on it.

Secretary **DUNCAN**. No; I have nothing to refute that. I would say only that I think the reduction in automobile demand is dependent on a lot of things, such as the issue of fuel efficiency and general economic conditions.

Mr. **JONES**. In that connection let me also mention a dispute between the CBO and your previous statement as to the inflationary impact of this oil import fee. I think the CBO says about a 1-percent increase; you say about a one-half-percent increase.

I would like to suggest to you, as a member of the administration and the Cabinet, that you get the administration to do something about making the CPI a more realistic measure, a more realistic gage of inflation. At the present time energy costs are one of the major portions, if not the major portion, of the CPI increases, and I don't think they truly reflect or take into account the conservation effort in energy.

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As I understand the CPI program, what it does is, if OPEC or the total costs of energy increases by 20 percent and it is costing me $100 to heat my home, for example, the CPI reflects that it costs $120 for me, but the fact of the matter is that those increases will have some conservation effect and that ought to be included in the CPI figuring.

I hope you can get the administration to move on a recommendation we have made to calculate the CPI in a more realistic light.

Mr. VANIK. The time of the gentleman has expired. The Chair now recognizes Mr. Holland.

Mr. HOLLAND. Thank you, Mr. Chairman. Mr. Secretary, as I understand this tax on a gallon of gasoline will be 10 cents. I want to know if the same 10 cents would apply to gasohol.

Secretary DUNCAN. No; the 10 cents would apply to gasohol only to the extent of the gasoline component of the gasohol.

Mr. HOLLAND. That would be 9 cents a gallon?

Secretary DUNCAN. Right, sir. In other words, the gasoline in the gasohol would be subject to the tax but not the alcohol in the gasohol.

Mr. HOLLAND. Thank you, Mr. Chairman and Mr. Secretary.

Mr. VANIK. Mr. Fisher.

Mr. FISHER. Thank you, Mr. Chairman. I compliment you, Mr. Secretary, for putting the principal problem up front, which is to cut back on and, if possible, reduce imports of oil in the interests of national security and long-range economic support and so forth.

If you take a kind of straight, head-on run at this, without too quickly getting into the difficulties, it seems to me you are on the right track, that you have to do something to try to reduce imports.

How do you do that as far as economic policy goes? You can put quotas of some sort on it or additional fees or some combinations of the two. And this is where we were when I came in, in 1975. The music does go around and around. And you are proposing a 10 cents a gallon import fee?

It would be better, from my point of view, if you had it on an ad valorem basis because the impact of the fee will diminish pretty fast and you will have to come back again if you want to get the same effect.

But, anyhow, there it is. And it seems to me that, if indeed the country and the Government wants to employ economic policy to cut back on imports, this is the straight and logical and understandable way to do it and I don't see how you can get around it.

Now, you have to test that in terms of: Can it be made workable? Will it be fair enough that it will gain support? Are the politics all against it at this time and so forth? But I do want to compliment you for putting the issue up here.

Now, 10 cents isn't very much when the price charged for a barrel is $32 or whatever it might be. So we can't expect very much from this, it seems to me. So it is a very minor thing. And although you put the issue up front, you don't propose to do anything very heavy about it.

Whether it is worth the candle to arouse all of this and run the risk of having the power to impose an import fee withdrawn from

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the President and so on, I don't know. But I do want to compliment you for addressing the issue.

Did you give any thought to a quota or a quota plus a tariff system?

Secretary DUNCAN. We did think about a quota. If you want to restrict the level of imports with a quota, we think you would have to do one of several things in order to enforce it. One, if you began to exceed the quota, you would have to impose an import fee, which is what we have done here and allocate it against gasoline.

Or, second, you could have an auction where you would auction off rights to import oil at a certain level. Now, if you did that, that would generate revenue but it also would be very difficult, if not impossible, to allocate it against gasoline.

Third, you might have a distribution of rights to import gasoline, let us say, predicated on historical usage. If you did that and if the constrained availability of oil in this country forced the price of oil to move up, we would then have a price of oil in this country in excess of the world market and it would be a windfall to those people having that auction right.

So, marrying all of this together, we came to the conclusion that the best option was to have the fee on crude oil imports and to allocate it against gasoline, with all of the revenue going to the Treasury.

Mr. FISHER. Did you give any thought to sliding the fee according to what would be a successful response in terms of lowered imports?

Secretary DUNCAN. Yes, we did. The point that you make is a very good point. In the legislation we will propose on the tax, we do intend that it be on an ad valorem basis so that the rate of the tax would escalate in a corresponding way with the rate of the product. In other words, the ratio would be maintained.

Mr. VANIK. Mr. Frenzel.

Mr. FRENZEL. Thank you, Mr. Chairman.

Mr. Secretary, I am sorry I had to leave during your testimony. I presume nobody asked you about the cost of administration of the program?

Secretary DUNCAN. No, they haven't. It is about 107 people?

Mr. ROBINSON. It is relatively minor. It is about $1.5 million, a great deal of which is contract money. We are also going to add something on the order of 100 people, most of whom would be involved in the enforcement of the program.

Mr. FRENZEL. What contract money is necessary?

Mr. ROBINSON. A computer system has to be designed to digest all of the information that comes in from the producers of gasoline and the importers of crude oil so as to come up with the entitlements list on a monthly basis and to indicate who owes whom money under the entitlements program.

Virtually all of that contract money is for the extension of the current contract we have for a system. It is a one-time cost of designing the computer system that is necessary to make the calculations.

Mr. FRENZEL. I see. You can hire 100 people for $1.5 million?

Mr. ROBINSON. Those 100 people will be transferred from other parts of the Department. And the $1.5 million does not include the personnel costs.

Mr. FRENZEL. So, we may not expect any supplemental budget requests as the result of this program?

Mr. ROBINSON. No, sir.

Mr. FRENZEL. Mr. Secretary, a couple of our members asked you why you would not have decontrolled instead of imposing this tax as a conservation measure or decontrol more swiftly. Are you able to decontrol gasoline on a selective basis?

Mr. ROBINSON. Yes, we could decontrol gasoline.

Mr. FRENZEL. Can you explain why you would not decontrol gasoline directly? It seems to me the 10-cent tax may or may not find its way to the gas pump as I guess previous discussion here has indicated. There you would have a direct gasoline disincentive to consume.

Why would you have avoided the direct disincentive and gone to one that may or may not be there?

Secretary DUNCAN. The decontrol of gasoline may or may not have an impact on price. That depends on the then situation, the then inventories, and the existing picture at the time of decontrol. This will have a 10-cent impact on price immediately.

Mr. FRENZEL. Well, except as I understand some of your previous testimony there is no guarantee that refiners will put that 10 cents on gasoline.

Secretary DUNCAN. I am very strongly of the conviction that the 10 cents will go on gasoline.

Mr. FRENZEL. Well, your strong convictions are fine but there is no way you can guarantee us.

Secretary DUNCAN. I recognize the concerns of the members of the committee on this but I feel that this 10 cents is going to be passed against gasoline and that we will have sufficient auditing of the oil companies so that we will know what happens to the 10 cents.

The competitive relationships have not changed. Everybody is moving in precisely the same way at precisely the same time. If there is noncompliance, I think we will know about it as a practical matter.

Mr. FRENZEL. I would like to yield to the gentleman from Louisiana. He has a contrary opinion.

Mr. MOORE. We have been over this, but I would simply say you have nothing in your regulations, to prevent a company from putting all or part of that 10 cents on nonregulated items they manufacture. So, how can you be sure they are not going to do that if the price of gasoline is soft and the competition is keen to maintain their market share?

Secretary DUNCAN. The thing we do not want to do is to go back to regulations. I am trying to move away from regulations.

Mr. MOORE. How about deregulating gasoline? Maybe that is the way to do it.

Secretary DUNCAN. If we were to do what you suggest and said we want to control that by regulation——

Mr. MOORE. I am not suggesting that. I suggest your own import fee will not work because of that. You ought to go to deregulating gasoline.

Secretary DUNCAN. That would mean returning to controls.

Mr. MOORE. Mr. Secretary, this import fee is going to mean numerous controls along with 100 people to try to administer something that is not going to work, and you are not going to be able to guarantee anybody that this is going on gasoline. You are just misleading the public.

Secretary DUNCAN. I am not trying to mislead the public. I feel strongly it will work.

Mr. MOORE. How can you say that? What is to prevent Exxon from putting this on beeswax or motor oil or lubrication, grease, or anything else they make?

Secretary DUNCAN. May I finish my statement without being interrupted, sir?

Mr. MOORE. Yes.

Secretary DUNCAN. We will know, in my judgment, if Exxon or any other company does not apply it against gasoline. I do not think they have any interest in being exposed, in being out of compliance even by way of the spirit of what we are trying to do.

I do not think that is in their interest and I think they recognize that.

Mr. FRENZEL. I want to thank the Secretary for his testimony.

Mr. VANIK. Mr. Secretary, I have not had a chance to make any inquiry, but I would like to ask a couple of questions at this point.

You stated in your testimony that this would impact, be a 10 cents gasoline price increase about May 15.

Secretary DUNCAN. Yes.

Mr. VANIK. Now, isn't there also a likelihood there will be some additional increases that come through in the normal process of decontrol? Aren't there 2 or 3 other pennies that are going to be added to the price of gasoline through normal circumstances without the import fee?

Secretary DUNCAN. Right, we are decontrolling upper tier at a rate I believe around 4.6 percent a month. And you will have that impact, yes.

Mr. VANIK. How much will that be without the import fee? Will it be 3 cents?

Mr. ROBINSON. I do not think it will be as much as 3 cents a month. It is probably on the order of 1 penny or 2 cents a month.

Mr. VANIK. Two cents a month will be the impact?

Secretary DUNCAN. And it will continue at that rate until about September 1981.

Mr. VANIK. All right.

Secretary DUNCAN. Depending upon the then price of oil, of course.

Mr. VANIK. Now, I am concerned that this program will provide a windfall to those who imported or produced gasoline prior to March 15, which is still in inventory because large stockpiles of gasoline accumulated. How much gasoline falls into this category and what will be the size of that windfall?

My figures are it might be in the range of $600 million. Go ahead.

Secretary Duncan. I would like for Mr. Robinson to comment on this, but it is my understanding that the cost of gasoline, excepting for the retailer, is rolled into an average inventory cost so that there is no incentive to add to inventory. In other words, we will be controlling post-May 15.

Mr. Vanik. I am talking about pre-May 15 accumulations of gasoline.

Secretary Duncan. If they accumulate pre-May 15, excepting for the retailer, they will get no benefit from that post-May 15 because they will still be under existing gasoline control regulations. Did I state that accurately, Doug?

Mr. Vanik. Are you telling me there will be no windfall to the accumulated stock of gasoline?

Mr. Robinson. That is correct. There will be no windfall. Perhaps it is easiest to understand if you set up a hypothetical situation which I think you were framing; that is, suppose somebody had a huge stock of gasoline prior to March 15 when the fee became effective and held it in inventory until after May 15 when he can start passing through the 10 cents a gallon.

The way the program works, he cannot raise his price on every gallon he sells by 10 cents a gallon. He is allowed to take the amount of gasoline he produced in the last 15 days of March times the entitlement obligation per gallon and add that to his total cost pool.

So, if he sells more gasoline in May, it dilutes the effect of the price on the gasoline.

Mr. Vanik. All right. Now, as this price increase is scheduled, which could be 13 cents coming all of a sudden on May 15, isn't that likely to create a stampede to the pumps before that price takes hold and isn't it likely to create shortages as people drain off and increase their storage of it? Is there any way we can phase in the increase in two or three steps to avoid that kind of thing?

Secretary Duncan. My judgment is that there is not that much flexibility. The average consumer will have an automobile and the limit would be one tank of gasoline or whatever the empty space is in his gasoline tank.

Mr. Vanik. You do not anticipate any lines and shortfall and dry pumps?

Secretary Duncan. I think it is fairly possible somebody might try to fill up on the 14th. That will be a short-term phenomenon and I think it will be limited by the availability of what they can do.

Mr. Vanik. Well, just 1 day's congestion at the pumps can create very difficult conditions around the country.

Now, the budget submitted to the Congress in January notes that the administration has not yet decided whether to restore on July 1 the 21 cent per barrel fee on crude oil imports. These fees were suspended on April 1, 1979 and about $700 million is involved.

What is your decision on this issue? Will the fees be added on top of the present fees? We are working on the budget now. We need to know. Last fall we were told one reason for the indecision on this issue was that a major study on refinery policy was underway within the administration. What is the status of that study?

Secretary Duncan. That is not finalized, Mr. Vanik.

Mr. **Vanik**. Are you going to put the fee on July 1 or not?

Secretary **Duncan**. Our final decision has not been made on that. Let me inquire into that and get back to you.

[The information follows:]

Question. Are you going to [re-impose the $0.21 fee on crude oil and the $0.63 fee on unfinished oils and finished products authorized by Proclamation 3279, as amended] on July 1st or not?

Answer. The license fees under Proclamation 3279, as amended, automatically will be reimposed on July 1, 1980, absent further amendment of the Proclamation by the President. The Department currently is assessing whether or not reimposition of the fees would be an effective means of reducing the threat to the national security posed by oil imports. Upon the completion of that assessment, a recommendation will be sent to the President, who then will decide on the appropriate course of action, taking into consideration related issues such as inflationary impacts. At this time no date has been established for the resolution of this matter.

Mr. **Vanik**. Well, it is really messing up the budget process, because we are not really able to solve that within this framework of budget decisions.

One final question. What do you believe will be the reaction of OPEC and the other oil-producing nations to the oil import fee? Some have worried that by setting a higher price, OPEC will be encouraged to increase its prices to other purchasers such as the Europeans.

On the other hand, it is possible that a sign of our determination to limit imports and help shore up the dollar and move a step toward conservation would be welcomed and will help slow up or postpone future price increases. Has the administration had any discussions at all with the OPEC and oil-producing nations on this point?

My hope, of course, is that this program would, in spite of the temporary inflationary impact that it has, be something that might reverse the multiplicity of oil price increases by the oil-producing nations, which were founded earlier on the depreciating dollar and the fact that we did not have effective programs of conservation.

Now, has there been any discussion at all, has the administration tried to explain to our oil suppliers that we are trying to conserve and that we are trying to firm up the dollar, and do we have any assurance that they are going to cool down their efforts at pushing up the oil prices to the world?

Secretary **Duncan**. We have had those discussions with many of the members of OPEC and we have had those discussions with the member companies of the IEA and also the summit countries. Reactions are generally very positive. They think that we are trying to adopt very strong anti-inflationary and conservation measures. They are very supportive of that.

The moderate OPEC countries have consistently urged very aggressive conservation, and the major industrialized countries of the world have been very supportive. They have been very critical in the past of the fact that we have not permitted the price of the gasoline to move toward world price levels, the prices charged in other industrialized countries.

Mr. **Vanik**. Mr. Guarini.

Mr. **Guarini**. Thank you.

Mr. Secretary, I came in a little late. How much would it cost to the public at the pump if this law were passed, if this allowance was passed?

Secretary **Duncan**. On May 15 there would be about 10 cents extra per gallon because of the actions we are now proposing.

Mr. **Guarini**. Wouldn't the oil companies be inclined to add additional costs to the 10 cents as the result of it costing more money to do business?

Secretary **Duncan**. No, because the price of gasoline is controlled.

Mr. **Guarini**. So, therefore, if you do charge 10 cents for the imported oil you do not feel that there would be any inclination on the part of the oil companies to raise the domestic gas, the domestic oil that we produce to meet that 10 cent level?

Secretary **Duncan**. The 10 cents additional charge would be on all gasoline.

Mr. **Guarini**. We are not talking about heating fuels?

Secretary **Duncan**. No, sir, we have tried very hard to insure that this goes all on gasoline, not on heating oil, not on petrochemical feedstocks nor any other form of petroleum product—just gasoline. All gasoline would move up by about 10 cents.

Mr. **Guarini**. Would you have further conservation in your opinion if you added 10 cents across the board on all gasoline and oil instead of just imported oil?

Secretary **Duncan**. I think we would, but I think that would be economically disadvantageous because it would contribute to inflation. I think that we should try to allocate this charge against the discretionary use of petroleum, where not consuming that petroleum will have the least detrimental economic impact.

That is in gasoline. That is where our discretionary consumption is and it is that we are trying to target. We are trying not to target things that might be detrimental either economically or socially, such as heating oil, which would be.

Mr. **Guarini**. But, you concede that the program would be inflationary though?

Secretary **Duncan**. It would be inflationary in the short term. Long range I think by lessening our dependence on oil, we are doing exactly the right things to contain inflation. By not having aggressive conservation programs we ultimately will be contributing to inflation.

Mr. **Guarini**. You pointed out in the testimony that Germany pays $1.14 a gallon, France and Italy pay $1.62 and $1.80 respectively. We are now paying about $1.30 plus at the pumps. Do you feel that it is in the oil company's interest to get our level to where the European level is $2 to $2.50 a gallon?

Secretary **Duncan**. I think over time with the processes of decontrol we are going to move to higher price levels of petroleum. Now, the tax level is the main difference. We have a tax level of only around 14 cents compared to tax levels that are in the range of $1.65 for France, $1.83 for Italy, $1.15 for West Germany, $1.16 for the United Kingdom.

The tax level is something that could change over time though we have no present contemplation of anything different from the 10 cents.

Mr. **Guarini**. It seems to me that Europeans are paying about $2.50 to $3 per gallon. If you take away their tax of $1.83 or $1.62 we are paying virtualy as much as they are with our $1.30 a gallon.

So, therefore, we are already at the European levels, contrary to what the oil companies have been telling us.

Secretary DUNCAN. We are at the European levels; excluding taxes, that would be an accurate statement.

Mr. VANIK. The time of the gentleman has expired. Mr. Schulze.

Mr. SCHULZE. Mr. Chairman, I will be very brief. Mr. Secretary, I would like to discuss the inflationary aspects of this tariff. This tariff was announced as part of an anti-inflationary package, but its effect, by the President's own admission, will be to raise the consumer price index about seven-tenths of 1 percent.

How do you justify this additional inflationary impact?

Secretary DUNCAN. One of the main causes of inflation has been the increasing price of energy.

Mr. SCHULZE. I hate to interrupt, but I hear that over and over. Yet, all the statistics I see talk about 2.5, 2.6, 2.8 percent. I would not call that a main cause of inflation when we have an inflation rate as high as we have today, would you?

Secretary DUNCAN. I am not familiar with the numbers you recite. But I think that the price of energy and the price of housing have been two of the main components of the rise in inflation. Now, we have had an increase in the price of energy that is just enormous, looking only at 1979.

Our import costs, as I said earlier, are up 1,000 percent since 1973 to a current level of $90 billion. The importance of constraining that growth in energy costs is of overriding importance in the long-term control of inflation.

It seems to me that you can control the energy component of inflation by just two things: You must develop alternatives to oil, the price and supply of which we have no control over; and you have to conserve.

What we are addressing in this program is conservation. It has a direct and an immediate impact on the amount of oil we import and in the long term can be viewed as very anti-inflationary.

Mr. SCHULZE. Well, it seems to me that we might have some control over the quantity by creating additional incentives for exploration and the drilling of additional wells and the finding of new sources.

Secretary DUNCAN. I agree with that. There are more rigs active today in America than at any time in the past 25 years. At the end of last week there were 2,690 drilling rigs active.

Mr. SCHULZE. Getting back to the inflationary aspects, if oil and petroleum products are as you stated, one of the major components in our inflation rate, wouldn't under that formula both Germany and Japan have far worse inflation rates than we have?

Shouldn't the inflation rate in Germany and Japan be astronomical compared to ours if the situation is as you state?

Secretary DUNCAN. Their inflation rate has moved up dramatically in the past few months as the price of oil has moved up.

Mr. SCHULZE. I would be glad to swap theirs for ours and I am sure you would.

Secretary DUNCAN. Yes, I would too but you have to remember they have been pricing energy at replacement costs for some period of time. We have been controlling our cost of energy at a low level. As we move through the process of decontrol, which applies to more than half of the oil that we use, it means that we have to absorb an abnormal inflationary rate during that period when we are, in effect, playing catch-up.

Mr. SCHULZE. Following that reasoning, decontrol then would mean lower inflation?

Secretary DUNCAN. We are moving to decontrol but we have to move through that period of price adjustment which will terminate in September of 1981.

Mr. SCHULZE. I yield to Mr. Moore.

Mr. MOORE. I appreciate the gentleman yielding. I would simply ask, do you think that a balanced budget is necessary in this inflation fighting?

Secretary DUNCAN. Yes, I think a balanced budget is very necessary, not so much from the standpoint of its direct impact on inflation in an empirical and intrinsic sense, but because the psychological expectation of inflation is one of the main things that is feeding inflation. To balance the budget independent of any import fee or independent of anything else, independent of any other revenue gathering measure, is terribly important in a psychological sense, which far exceeds the actual impact on the CPI.

Mr. MOORE. I have just been reading this morning a draft report from the Congressional Research Service of the Library of Congress. They predict a 1.1-percent inflation increase caused by the fee which more than offsets any reduction in inflation by an actual balanced budget.

When this information gets out, haven't you destroyed the psychological effect of balancing the budget? You have certainly destroyed the actual numerical reduction of inflation.

Secretary DUNCAN. I feel very strongly that it is simply irrefutable that we are doing the right thing for inflation if we lessen our dependence on foreign oil. I do not think that you can possibly make an argument that would hold any water at all over a reasonably short period of time that the statement I have just made is inaccurate.

I intend to sort out the number that is in the Congressional Budget Office report as to the cost of the program to see where the differences may be between the administration number and the number that is quoted in that report. I will provide that information, which one of your colleagues was asking me about earlier. But even if the statement is correct as you made it, to reduce our gasoline consumption to lessen our dependence on foreign oil is still the right thing to do. This is an overriding priority. If we do not do well at this, I think future generations of Americans are going to be asking us what were we doing back in 1980.

[The following was subsequently received:]

The Department of Energy used the Data Resources, Inc. model of the U.S. economy to forecast the inflation impact of the Gasoline Conservation Fee. Analyses show the ten-cents per gallon fee will add seven-tenths of a percentage point to the growth rate of the Consumer Price Index (CPI) on a one-time basis. This includes both the direct and indirect effects of the fee. This is similar to the impact forecast by the Council of Economic Advisors. The Congressional Budget Office estimate is slightly higher, about a 1 percentage point increase. The difference appears to be in estimating the direct effects of the fee.

Gasoline prices have a relative weight of 5.62 percent in the CPI as computed by the Bureau of Labor Statistics for December, 1979. The ten-cent fee represents an eight percent increase in the average gasoline price of $1.25 per gallon. The 8 percent increase results in a direct impact of 0.45 percent on the CPI, rather than 0.6 percentage points as estimated by CBO. Different assumptions mentioned by CBO in its March, 1980 analysis such as refunding the revenue through reduced Social Security payroll taxes, an inability of refiners and dealers to pass the full cost of the fee on to consumers and higher base gasoline prices would all result in smaller impacts than Administration forecasts.

Mr. MOORE. Well, why not a 50-cent tax instead of 10 cents if you really believe that, if you really believe an oil import fee or a tax is the way to go?

Secretary DUNCAN. The 50-cent tax is not appropriate at this time given the level of decontrol and given what we can foresee. I cannot tell you what the exact price level ought to be. If the Strait of Hormuz were to close tomorrow, I would probably be sitting here asking for a higher tax because we would have to have some tougher demand constraint.

Mr. MOORE. What about the savings of decontrol of gasoline versus your 10-cent-a-gallon import fee gasoline tax?

Secretary DUNCAN. I do not know what you mean by the savings of decontrol of gasoline.

Mr. MOORE. If you decontrol the price of gasoline, let the market take over, how much would you save as compared to the 100,000 barrels a day you are going to save by this 10 cents?

Secretary DUNCAN. If you decontrol gasoline today the price might not go up. It might not change.

Mr. VANIK. The time of the gentleman has expired. Mr. Martin.

Mr. MARTIN. Thank you, Mr. Chairman and Mr. Secretary.

A year ago on April 11, the level of imports from all sources into the United States was about 8.2 million barrels a day and on that same date this year it was down to about 6.8 million barrels a day. In other words, there has already been from various economic factors and so forth a conservation record which has achieved a reduction of about 1.3 million barrels a day, about a 16-percent reduction.

I understand from your statement that you are proposing to add roughly another $5 a barrel, $4.62 a barrel to imported oil and trying to focus that on gasoline in order to reduce imports another 100,000 barrels per day, roughly one-tenth of what has already been achieved; that is only another 1.1 percent and maybe you double that in the second year.

It seems to me your proposal does not amount to very much, does it?

Secretary DUNCAN. It would be 100,000 barrels at the end of the first year. At the end of the third year we think it would be 250,000 barrels. I think if you consider the fact it will take $1 billion out of the bill for foreign imports, if you consider the fact that we are moving in the right direction, that we are doing what we ought to be doing, that is sending the right signals to the moderate OPEC countries, when you consider what it can ultimately do to the inflation rate, I think that we are doing the right thing.

Mr. MARTIN. It is probable that a year from now you will not know whether you have actually achieved that reduction or not because you will not know what to compare it with, will you? There has already been a reduction of about 1.3 million barrels a day and that is so large in comparison with the little that you are talking about you won't know whether you have impacted that or not.

Secretary DUNCAN. I do not know what the 1980 import levels are going to be.

Mr. MARTIN. If it is down another 250,000 barrels you might be able to say, "Well, look, our import fee"——

Secretary DUNCAN. Well, there are other things, for example, it is a function of inventory levels. There was a substantial inventory built up in 1979 that is not recurring now. I think when you analyze a question like that you have to look at adjustment in inventory levels and the most important thing to look at is consumption and see what is really happening in terms of consumption.

Mr. MARTIN. All I am saying is your proposal really does not amount to much in comparison with what has already happened except that next year if there is another reduction because of the same factors that have already achieved a bigger reduction than you are talking about, you will take the credit for that by saying "Look, our import fee succeeded."

You want to conserve on imported oil by adding about $5 a barrel and apply that toward gasoline. But isn't it true we already subsidize imported oil about $5 a barrel in the form of last year's entitlements program that encourages imports of heating oil? Do we think that is raising imports about 100,000 barrels?

Secretary DUNCAN. The very thing that we are trying to do in the process of decontrol is to move away from subsidizing the import of foreign oil. By this we are enhancing our ability not to import, and the differences are going directly to the U.S. Treasury.

Mr. MARTIN. Well, Mr. Secretary, you have a very tough job and sometimes some of us look at this in a very simple way, but it seems to me all you are talking about doing is adding $5 to the cost to offset the subsidized $5 that was put on a year ago. They will only neutralize each other.

Is the net effect that it is not going to do anything to conserve and all it is going to do is add a tax on gasoline to pay for home heating oil? If that is what we are doing, let's say so.

Secretary DUNCAN. No, we are not doing that because we are trying to add to costs where there is a lot of price elasticity and where we can get direct and immediate impact on consumption; and that is on gasoline. We are trying not to accelerate the addition to costs and other factors that will more directly impact the economy that will tend to make the American industry in petrochemical, let's say, less competitive than would otherwise be the case.

We are trying not to put it on home heating oil where there would be social impacts. We are trying to direct the costs so we can get all the long-term positive effects on it and have the least detrimental economic and social impacts.

Mr. MARTIN. When all is said and done, it is still not going to amount to much. We thank you for coming and explaining.

Mr. VANIK. I know your time is running short. Mr. Eckhardt has some questions.

Mr. ECKHARDT. I will be brief because I know of your time problem. I also appreciate the courtesy of this committee. But, I did want to clarify one point. I think your statement exactly fits in with the information we have.

As I understand one of your answers to Mr. Vanik's questions you said that the impact of accelerated decontrol between now and the end of September of 1981 was equivalent, as I understand, to about 2 cents a gallon on gasoline per month. Am I correct on that?

Secretary **Duncan**. I would want to check my numbers on that. As I recall, we began decontrol of upper tier on January 1. It was decontrolled until September 30, 1981, at a rate of 4.6 percent a month. In order to make that adjustment in an absolute sense, the one you have just made, you would have to say that you know precisely what the then cost of crude oil would be because if that 4.6 percent is of a much higher number of oil, if the price of crude oil for some reason rises dramatically, that is going to change your 2 to 3 cents, of course.

But, as a general statement, I think you are on target.

[The following was subsequently received:]

The Economic Regulatory Administration has estimated the total impact of accelerated decontrol for the period January 1980 through October 1981 is 22 cents per gallon of gasoline, or 1.05 cents per gallon of gasoline each month during this same period.

These estimates are based on the assumption that average official Saudi crude prices escalate at 15 percent annually from their actual April 1980 estimated average and that other world oil remains in the same relation to Saudi prices as in April 1980.

Mr. **Eckhardt**. My subcommittee on oversight and investigation has been constantly readjusting with respect to the price to which the decontrolled categories of oil would move. Though we haven't got final figures, and I suppose you do not either because they do change, we have calculated somewhere in the neighborhood of $2 billion a month as the additional cost occasioned by moving from the terms of EPCA to the speeded up decontrol, which would be equivalent to about 2 cents per gallon of gasoline.

The reason I ask this is I assume that you are using that as an equivalent in gasoline rather than saying that that would be the actual difference in gasoline per month, because, of course, gasoline would be only about half of the total quantity of crude oil.

Therefore, I would assume that 2 cents a month would be as if gasoline were carrying the entire brunt of that inflationary figure. Otherwise, of course, that would indicate about $4 billion a month in additional costs. We come out with about $2 billion. And I just wanted to be sure that I understand.

Secretary **Duncan**. Two cents?

Mr. **Eckhardt**. We come out with a calculation that at existing prices corrected for existing foreign oil prices, the cost of accelerated decontrol above what the costs would be had EPCA run its course to September of 1981 is approximately on the average $2 billion per month more than would have existed had EPCA run its course.

Now, that would tally exactly with 2 cents a gallon gasoline if you are talking about sort of a hypothetical situation in which gasoline were bearing the total additional costs.

Secretary **Duncan**. That sounds about right.

Mr. **Eckhardt**. I just wanted to be sure it wasn't $4 billion instead of $2 billion. But, I think we are talking in terms of an equivalent additional cost in gasoline.

Secretary **Duncan**. That's right. It is $2 billion.

Mr. **Eckhardt**. About $2 billion a month. That is all I have, Mr. Chairman.

Mr. **Vanik**. Thank you. Mr. Secretary, I promised that you could leave by this time. If I have a question or two, I will put them in the record and you can respond to them and place your answers in the record.

Mr. Shannon had a brief question.

Mr. **Shannon**. If I could just get back to my original line of questions for one second. Are you telling us that the entitlements portion of this program will be enforced pursuant to the EPAA?

Secretary **Duncan**. I am telling you it will be enforced pursuant to authority in both the EPAA and the Trade Expansion Act.

Mr. **Shannon**. So, you are telling us that you have some kind of special authority that comes from putting the EPAA and the Trade Expansion Act together?

Secretary **Duncan**. No. Now, I am a layman and as a layman——

Mr. **Shannon**. You are the Secretary of Energy.

Secretary **Duncan**. I am a layman. I am not a lawyer. This is what I meant by that statement. So, I will defer to my General Counsel. It is my understanding that we have authority from both to do that.

Mr. **Coleman**. I believe that you can enforce the program under either statute, having both authorities available, we naturally choose to rely on both.

Mr. **Shannon**. So, you don't delineate in the proclamation between certain authority you have under the Trade Expansion Act and certain authority you have under the EPAA?

Mr. **Coleman**. No, we did not in the proclamation. That can be done, but it wasn't necessary for the purpose of the proclamation.

Mr. **Shannon**. Well, Mr. Coleman, I know you are a very good attorney and I also know that before you had your present position, you represented a lot of oil companies. I suspect you would not mind defending an oil company that was prosecuted under this authority.

Mr. **Coleman**. Well, let me put it this way. If I were in private practice and the Government hired me, I would be happy to take this case on a contingency.

Mr. **Shannon**. Thank you.

Mr. **Vanik**. Mr. Downey.

Mr. **Downey**. Thank you, Mr. Chairman. Mr. Secretary, I understand that one of the consultants to the Department of Energy, a fellow by the name of Blum, has sent you a memorandum stating that it would take a fortune teller to know whether this fee would fall on gasoline alone. Now, I understand there is some controversy as to whether or not this memo will be made public.

Are you willing to disclose that memo to this committee? Maybe I should ask you whether it exists.

Secretary **Duncan**. I don't have personal familiarity with the memo you are talking about, but I presume that is one of the memos we are discussing with Mr. Moffett. Whether or not we will submit it, will be pursuant to the resolution of those discussions.

Mr. **Downey**. Could you tell us the substance of that memo?

Secretary **Duncan**. The memo is not clearly in my mind, no. The Department of Energy is a big Department. There are many people who have a lot of views on a lot of things. I expect you could find a memo on any subject you want to if you went through the whole files of the Department.

Mr. **Downey**. The reason I ask you is he is the general counsel to the independent gasoline marketers council and might have some feeling as to how this fee is going to be passed on.

Wrong fellow?

Mr. **Robinson**. There is a confusion here. I think the fellow you are referring to is not Mr. Blum, but Paul Bloom, the Special Counsel in the Department of Energy.

Secretary **Duncan**. We have a Blum and a Bloom.

Mr. **Downey**. He is at the Office of Compliance of the Department of Energy.

Secretary **Duncan**. That would be Paul Bloom. Yes, sir.

Mr. **Downey**. I am sorry.

Mr. **Vanik**. Mr. Secretary, one final question. One of the representatives of the Department of Energy testified as to the price of gasoline at the end of the year with the fee. Now, what would be the figure if this fee is not disturbed by the Congress? You are going up 2 cents a month now. I have figures here of $1.24 a gallon today, adding 13 cents on May 15 would bring us to $1.37. I go 2 cents a month and get to $1.51 by December.

Now, I understand that someone on your staff estimated it would be $1.64. What counsel can we give our people to what effect this is going to have?

Secretary **Duncan**. I think if you assume existing prices for crude oil——

Mr. **Vanik**. And, no OPEC price increase?

Secretary **Duncan** [continuing]. And, if you assume that there are no OPEC price increases, and if you assume the same pace of decontrol that we presently have, and if you assume the 10 cents that we have been talking about this morning, it would be in the order of magnitude of $1.60 to $1.65, but, that is with all the caveats that I have made. I think one of the great problems we face, we the administration, and you the Congress, is that we cannot say with certainty what it is going to be. We are in a situation today where Iran has virtually discontinued exporting oil. We are in a situation where you don't know what other producing countries might do.

We are in a situation today where the Soviets are in Afghanistan and they have representation unfortunately in Yemen, to the south of Saudi Arabia. We are in a situation where you really don't know what the situation might be immediately. That is why we have to push this conservation so hard.

Mr. **Vanik**. Did we pledge or offer the Japanese any supplies of our oil or give them any oil consideration?

Secretary **Duncan**. No, we have not. We have made no specific pledges, but we have been very supportive and I think we should be very supportive. I think the actions that the Japanese have taken, given their dependence on oil, are very courageous. I think it is in our national interest that we be very supportive of the Japanese.

What could have happened is, we could have had another round of price increases as happened the last time the Iranians increased their price. I think the fact that the prices have not moved up without any economic justification is attributable in part to the actions of the British oil companies and the Japanese.

Mr. **Vanik**. And, we are not going to face shortages because of that?

Secretary **Duncan**. I think we are in good shape inventory-wise right now. Fortunately, we are in a very good situation

Mr. **Vanik**. Mr. Secretary, we want to thank you for your long and extended testimony. If the members have any further questions, we will try to get them to you in writing. Thank you very much.

[The following was subsequently received:]

Committee on Ways and Means,
Subcommittee on Trade,
Washington, D.C., May 6, 1980.

Hon. Charles W. Duncan, Jr.,
Secretary of Energy, Department of Energy, Washington, D.C.

Dear Mr. Secretary. Thank you for your assistance at our hearing on April 24th on oil import fees and gasoline conservation.

In reviewing the transcript of the hearing and other documents, a number of additional questions arise. It would be very helpful if you could provide us with answers to the attached questions prior to May 12th.

Thank you for your continuing assistance.

Sincerely yours,

Charles A. Vanik, *Chairman.*

Attachment.

Question 1. Attached is testimony of the Service Station Dealers of America in opposition to the fee. Could the Department please respond to the two issues in the testimony which have been marked in blue pen?

(a) "Enforcement of the 55 mile-per-hour speed law would conserve more oil than the import fee would cause to be conserved."

Answer. (a) Strict enforcement of the 55 mile-per-hour speed limit would conserve gasoline and thus reduce imports. However, we do not have data showing the amounts which would be saved since enforcement of the 55 mile-per-hour speed limit varies from state to state. When strict enforcement of the 55 mile-per-hour speed limit was proposed in the National Energy Plan, the Department estimated savings to be from 100,000 to 200,000 barrels per day. This is one of many initiatives the Administration has taken to reduce imports.

(b) "Some oil companies may choose, under DOE regulations, to 'bank' the higher costs to hold lower prices so as to maximize sales volumes."

Answer. (b) The Department regulations governing the passthrough of costs on gasoline have a provision for banking any allowable cost deemed unrecoverable. Those regulations are to be used to pass the 10 cents per gallon fee through to the consumer.

Industry representatives have informed us that the general industry intent is to begin, on May 15, 1980, the passthrough of the full 10 cents per gallon. Some local markets may experience instances of "banking" or "margin cutting" to attempt to capture an additional share of the market, but most refiners have stated their intention to pass the 10 cents through to the consumer.

Question 2. If the Congress enacts after May 15 legislation disapproving the President's action, would gasoline prices, which will have increased about 10 cents, be reduced about 10 cents? How long would it take for the reduction to reach the public? Will DOE be prepared to ensure that the price reduction is passed through to consumers—and what will be the mechanism for ensuring this reduced price?

Answer. Should legislation be enacted which disapproves the Petroleum Import Adjustment Program after May 15, 1980, prices will be reduced by the full amount of any fees. The 10 cents which will have been passed through to the retail outlet can be removed from the market in a relatively short time.

If the program should be operable for a two or three-month period before Congress takes its action, it may require two or three months before the entire effect of the program could be reversed without any unnecessary market distortions.

The manner in which the Department will ensure both the passthrough of the fee (10 cents per gallon) or any cost reductions resulting from reversal of the fee is through a vigorous audit program with a high priority for the passthrough provisions of the Petroleum Import Adjustment Program.

Question 3. On page 22 ff. of the hearing transcript, certain questions were raised concerning the specific legal authority the Administration is relying on to enforce the gasoline conservation fee program. If the EPAA authority is denied (or lapses in September 1981), what is the Administration's basis for asserting that 19 U.S.C. 1862 is sufficient to ensure that the fee is concentrated on gasoline? The Subcommittee would appreciate a response to the legal questions raised by Rep. Shannon.

Answer. The Department's position in response to the legal issues raised in the testimony is stated in the memorandum titled "Memorandum Concerning the President's Authority to Impose an Import Fee and Establish a System to Allocate that Fee to All Gasoline Produced in the United States," a copy of which is enclosed. [The memoradum follows the questions and answers.]

Question 4. What will be the fee treatment of crude oil products, such as naphtha, which may be imported and easily converted to gasoline, presumably without paying the dime a gallon fee?

Answer. The Petroleum Import Adjustment Program provides for a payment of approximately $4.20 per barrel fee on all petroleum products which are imported under a gasoline import license.

For those other petroleum products which may be imported without paying the approximately $4.20 per barrel fee and are not imported under a gasoline license, the blender of the products is considered to be a producer of gasoline and must pay a gasoline entitlement fee of approximately $4.20 per barrel.

The fee program is thus designed to collect the fee on imported gasoline or else to collect the fee on domestically produced gasoline, regardless of the origin of the feedstocks (blendstocks), that is, domestic or imported.

Question 5. What impact will the fee have on the already depressed auto industry? (What is the documentation for your statement?)

Answer. No precise estimate has been made of the impact of the fee on the auto industry. However, the higher price of gasoline resulting from the fee will likely encourage the current tendency towards purchase of better mileage automobiles.

Question 6. Under the oil import fee program, the Treasury will be collecting about a billion dollars a month. Will this be collected by the Customs Service as it would collect the fee on any other type of import, that is, collection within about 10 days of entry into the country—or will transfers of funds to the Treasury be less frequent?

Answer. This fee will be paid directly to the Treasury by wire transfer. However, the fee is not due 10 days after entry into the country but at the end of the second month following the month of entry of the volumes into the United States. For example, crude oil entered into the United States in April 1980 incurs a $4.62/barrel fee obligation, but the fee is not payable to the Treasurer of the United States until June 30, 1980. The Secretary of Energy is responsible for collection of this fee.

Question 7. According to the CBO, the import fee will have a higher percentage impact on lower income families than upper income families. Do you agree (and what counter-steps do you propose)?

Answer. We agree with the CBO conclusion that the import fee could have a higher percentage impact on lower income families than upper income families. This is an interim program. When the tax legislation is proposed we will provide recommendations to reduce the burden on low income families.

MEMORANDUM CONCERNING THE PRESIDENT'S AUTHORITY TO IMPOSE AN IMPORT FEE AND ESTABLISH A SYSTEM TO ALLOCATE THAT FEE TO ALL GASOLINE PRODUCED IN THE UNITED STATES

Following the President's announcement of July 15, 1979, the Administration has been considering ways to limit petroleum imports by use of the President's authority to control imports which affect the national security. Separately, the Administration also has been considering measures to reduce consumption of gasoline. Obviously, the two subjects are closely related because gasoline demand creates the need for oil imports; conversely, reduction in gasoline demand should in and of itself have the effect of reducing the level of oil imports.

This memorandum addressed the President's authority to control imports which affect the national security by imposing a fee on imported oil (or the gasoline component of imported oil) and establishing a new entitlements program that requires all domestic gasoline producers to bear the fee in proportion to the amount of gasoline produced.

I. THE IMPORT FEE

Section 232 of the Trade Expansion Act of 1962, as amended, 19 U.S.C. 1862(b), provides: Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from, and shall consult with, the Secretary of Defense, the Secretary of Commerce, and other appropriate officers of the United States, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. * * * If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall so advise the President and *the President shall take such action*, and for such time, *as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security*, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. (Emphasis added.)

The requisite investigation and findings with respect to petroleum imports have already been made and Presidents have, over the past twenty years, taken a variety of actions pursuant to this authority to adjust petroleum imports, including the use of quotas and fees.

The effect of this proposal would be to reduce demand for imported oil by reducing gasoline demand through increased gasoline prices. In *Federal Energy Administration* v. *Algonquin SNG, Inc.*, 426 U.S. 528 (1976), a unanimous Supreme Court held that this statute authorized the use of import fees to adjust imports.

II. THE ENTITLEMENTS PROGRAM

A. The Emergency Petroleum Allocation Act

The Emergency Petroleum Allocation Act (EPAA), 15 U.S.C. 751 et seq., authorizes promulgation of regulations providing for the "mandatory allocation of crude oil, residual fuel oil and each refined petroleum product in amounts specified * * * and at prices specified in * * * such regulations." EPAA § 4(a). This authority is not limited to the direct physical allocation of oil but may be utilized, as is the case with existing entitlements equalizing refiners' foreign and controlled domestic crude costs, to establish a scheme having the same economic effect. As explained below, we believe this authority would enable us to establish a program requiring those refiners which produce motor gasoline to bear any increased costs imposed by an import fee.

Each amendment to the regulations under the EPAA must be in furtherance of one or more of the objectives of the EPAA. While conservation is not one of the express objectives, equitable distribution of crude oil and refined petroleum products at equitable prices among all regions and areas of the United States (EPAA § 4(b)(1)(F)) and protection of the public health, safety, welfare and the national defense (EPAA § 4(b)(1)(A)) are express objectives.

Were the incidence of the import fee allowed to rest solely upon gasoline produced from imported oil, the result would be inequitable disparities in gasoline costs among the various regions of the United States and among different refiners, depending upon the degree to which the region or refiner was dependent upon imported crude oil. It is well settled that the EPAA provides the authority to alleviate such disparities. The existing entitlements program, intended to equalize the costs to refiners of foreign oil and controlled domestic oil, is the best precedent for the proposed new entitlements program, the effect of which is also to equalize costs among gasoline producers.

The program also furthers the first objective of the EPAA—protection of the public health, safety, welfare and national defense; to protect the national security (both economic and defense) this Nation's dependence on foreign oil must be reduced. The proposal contemplates reduction of imports through a mechanism for distributing to gasoline any (or some designated portion) of the increased costs of foreign crude oil or a fee on imported oil. If these increased costs were passed through to the consumers of all petroleum products, the impact would be to raise the price of middle distillates and residual fuel, the petroleum products used for home heating, electric power generation and commercial and industrial uses. These products already sell at or near world market prices, as contrasted with gasoline, which in the United States sells for much less than in other industrialized countries. Raising United States prices for these products above world prices would have consequences detrimental to the public welfare, including making United States manufactured and agricultural products less competitive in world markets, thus contributing to reduced domestic employment. If, however, the increased costs were passed through only on gasoline, the impact of the increased costs would be reduced on essential, nondiscretionary products and more effective in achieving the protection of the national security because a high proportion of gasoline consumption is discretionary. Accordingly, the proposal to provide for the pass-through of increased crude oil costs to refiners that produce gasoline furthers the first objective of the EPAA and such a result could be obtained through an entitlements scheme of the type proposed.

B. Section 232(b) of the Trade Expansion Act

Section 232(b) of the Trade Expansion Act of 1962, 19 U.S.C. 1862(b), is set forth above at page 1.

The statutory language authorizing the President to take such action "as he deems necessary to adjust the imports" of the article in question is very broad. The only limitation on the President's action found in the statute is that the President must deem the action necessary to adjust imports. In *Federal Energy Administration* v. *Algonquin SNG, Inc.*, 426 U.S. 548 (1976), the Supreme Court, in upholding a program to adjust imports through a license fee system, decided that the Congress intended the grant of authority to be as broad as the language of the statute suggests.

In reaching this conclusion, the Supreme Court considered both the breadth of the language of section 232(b) and the legislative history of that provision.

> In authorizing the President to "take such action, and for such time, as he deems necessary to adjust the imports of [an] article and its derivatives," the language of § 232(b) seems clearly to grant him a measure of discretion in determining the method to be used to adjust imports. We find no support in the language of the statute for respondents' contention that the authorization to the President to "adjust" imports should be read to encompass only quantitative methods—i.e., quotas as opposed to monetary methods—i.e., license fees of effecting such adjustments.
>
> Indeed, reading respondents' suggested limitation into the word "adjust" [that is allows quotas only] would be inconsistent with the range of factors that can trigger the President's authority under § 232(b)'s language. Section 232(b) authorizes the President to act after a finding by the Secretary of the Treasury that a given article is being imported "in such quantities or *under such circumstances* as to threaten to impair the national security." (Emphasis added.) The emphasized language reflects Congress' judgement that "not only the quantity of imports * * * but also the circumstances under which they are coming in: their use, their availability, their character" could endanger the national security and hence should be a potential basis for Presidential action. 104 Congressional Record 10542–10543 (1958) (remarks of Rep. Mills). It is most unlikely that Congress would have provided that dangers posed by factors other than the strict quantitative level of imports can justify Presidential action, but that that action must be confined to the imposition of quotas. Unless one assumes, and we do not, that quotas will always be a feasible method of dealing directly with national security threats posed by the "circumstances" under which imports are entering the country, limiting the President to the use of quotas would effectively and artifically prohibit him from directly dealing with some of the very problems against which § 232(b) is directed (426 U.S.C. 561–62).

This language is clearly applicable to the current proposal. In the instant situation, we have a proposal to adjust petroleum imports by reducing gasoline consumption. This would be accomplished by imposing a fee on imported oil (or the gasoline component thereof) and encouraging refiners to pass the fee through on gasoline alone. The objective is to adjust (reduce) imports of oil by reducing domestic consumption of the petroleum product subject to the greatest discretionary use in a manner intended best to promote the national security. If the President can, as the Supreme Court held he could, adjust imports by imposing a fee, it would be illogical to conclude that the President could not, however, seek to target the fee so that it is imposed in a manner directed to the particular "use * * * [and] character" of an imported commodity that would be most effective (and have the fewest undesirable side effects). Indeed, prohibiting him from tailoring the incidence of the fee in a manner designed to be most effective would "effectively and artifically prohibit him from dealing with" the problem at hand. Ibid. Since the means chosen appear to be rationally related to the objective intended, it seems to fall within the clear meaning of the statutory language authorizing the President to "take such action * * * as he deems necessary * * * to adjust the imports * * * threatening national security.

In *Algonquin*, the Supreme Court, in addition to relying upon the broad language of the statute, exhaustively reviewed the legislative history of section 232(b) and found that it supported a broad view of authority granted. For example, Senator Millikin, one of the sponsors of the legislation, stated that section 232(b) authorized the President "to take whatever action he seems necessary to adjust imports * * * [including the use of] tariffs, quotas, import taxes or other methods of import restriction." 101 Congressional Record 5299 (1955) quoted at 426 U.S. 564. This statement expressly acknowledges that section 232(b) authorizes methods other than tariffs, quotas and import taxes. Similarly, other floor statements cited by the Supreme Court as entitled to weight stand for the proposition that section 232(b) grants the President the broadest authority. For example, Senator Barkley, a member of the Senate Committee on Finance, the committee in which this provision orginated, expressed his understanding that the provision would allow the President to "impose such quotas *or take such other steps* as he may believe to be desirable in order to maintain the national security". 101 Congressional Record 5298 *quoted with emphasis*, 426 U.S. 565-66.

The Supreme Court noted: Thus, when Congress finally enacted [the statute which is now section 232(b)], not only had Members of both Houses indicated that the provision authorized the imposition of monetary exactions, but the Executive Branch, too, had advised the Congress of its understanding of the broad scope of the authority granted by the amendment. Id. at 566-67.

Had the Supreme Court intended to limit its view of the statute to quotas and fees, the last phrase relating to the broad scope of the authority would have been superfluous.

Three additional indicia support the conclusion that section 232(b) authorizes a program of the type discussed herein. First, at the conclusion of its opinion, the Supreme Court in *Algonquin* expressed the view that section 232(b) would not support any action that might have an effect on imports: A final word is in order. Our holding today is a limited one. As respondents themselves acknowledge, a license fee as much as a quota has its initial and direct impact on imports, albeit on their price as opposed to their quantity. Brief for Respondents 26. As a consequence, our conclusions here, fully supported by the relevant legislative history, that the imposition of a license fee is authorized by § 232(b) in no way compels the further conclusion that any action the President might take, as long as it has even a remote impact on imports, is also so authorized. 426 U.S. 571. (Emphasis in original.)

In this paragraph, the Supreme Court establishes a practical test for determining whether a proposed course of action to adjust imports is authorized by section 232(b): whether the action will have an initial and direct impact on imports. If the conclusion that an import fee allocated to gasoline will reduce consumption and imports is correct, the proposed program will initially and directly reduce petroleum imports.

The second point to be considered is that the need to raise domestic prices to reduce demand for all petroleum products was directly linked to the fee system considered in *Algonquin*. The record before the Supreme Court was replete with references to this linkage and, of necessity the court must have been aware of this. For example *FEA* v. *Algonquin*, supra, appendix 125, 127, 208-10, 358-62, 363-366.

Finally, in the course of administering the various versions of the oil import program established under section 232(b), the practices of imposing different levels of fees on different types of products, and of providing differing allocations and fee-free allocations for different products and different regions of the United States, including Puerto Rico, are well established. While there has been no litigation challenging these practices and they have not, therefore, received judicial approval, their longstanding existence provides support for the import fee/gasoline entitlement program.

LYNN R. COLEMAN, *General Counsel.*

Mr. VANIK. The Chair will now recognize our distinguished colleague from Ohio, Mr. Latta, and after Mr. Latta, we will recognize Mr. Eckhardt with his testimony.

Mr. Latta, we are happy to have your testimony, the senior member of the Ohio delegation.

STATEMENT OF HON. DELBERT L. LATTA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. **Latta**. Not quite, Mr. Chairman. You are my senior. I am happy to be here but not under these circumstances.

Let me say, Mr. Vanik, that in all the years I have been in the Congress this is my first appearance before this committee. And I am very proud of the opportunity to appear here, and the promptness in which you scheduled me, because, as you know, we are debating the budget now on the floor. Hopefully, we will be in the amendment stage before the afternoon is over. But I do welcome the opportunity to appear here in support of H.R. 6829, which in effect takes away the authority of the President to impose this import fee.

There are to date 129 sponsors of this legislation here in the Congress. There are 129 like-minded individuals. And I think that if we would really bear down and put out the word a little better than we have we would have a majority of the Congress in support of this resolution and its cosponsors.

I happen to feel that it is the duty and the responsibility of the Congress to impose taxes, and not the executive branch of government. And that is one of the most important things that I wanted to point out to this committee this morning: It is our responsibility to initiate these matters and it is the responsibility of the Congress to pass them. I couldn't quite understand that they derived the authority that they did to impose this import fee which, I understand now, in listening here briefly this morning, that it is going to amount to about 13 cents in May. I was under the impression it would be 10 cents.

Mr. **Vanik**. The fee is 10 plus the decontrol increase.

Mr. **Latta**. So we are going to have a 13-cent increase in the gasoline price. And I am here to tell you, Mr. Chairman, out in my part of Ohio, northwestern Ohio, people have had enough taxes, they have had enough high gasoline prices and they don't want this imposed as in this case by the executive branch of our Government. They are smarting.

And I also want to point out that I disagree with those who say it is not inflationary to impose this tax. It is inflationary. All you have to do is to take a look at the proposed increase in the inflation rates and you have got 0.7 percent. It was pointed out by one of the members of your committee this morning, and that is the figure we have in the Budget Committee. And this is inflationary . There is no doubt about it.

People out our way drive back and forth to Toledo every day because of their jobs being in Toledo or they go to the General Motors plant over at Defiance, and they will drive 80 miles to and from work. And when you crank in an additional 13 cents onto their gasoline charges in May you naturally raise their cost of living. And so it will be throughout the United States.

I think that it is improper for the administration to impose this fee even though they have the questionable authority, as pointed out here, to do so without the concurrence of the Congress

I just hope we have have some speedy action out of this committee and get this matter to the Floor so that the Congress can take whatever action the Congress, as the people's representatives, think they should have.

And I might also point out on the budget resolution we have made an order in the Rules Committee, the Rousselot amendment, which will give us a clear shot at this question as to whether or not we want to impose this additional tax by removing the amount of the tax which according to the figures given to us in the Budget Committee was about $12 billion. When we first heard about it it was about $10 billion.

So we will have an opportunity in the Rousselot amendment of stating how we feel as Members of Congress, especially in the House, on this additional tax.

That concludes my statement, Mr. Chairman.

Mr. Vanik. Thank you.

I would just like to ask you, Mr. Latta, the Rousselot amendment would take the tax out of the budget?

Mr. Latta. Right.

Mr. Vanik. In your judgment would that be restricting the Ways and Means Committee—I am just asking a theoretical question and I don't know whether this committee is going to do it—but under the budget procedures does the budget action preclude the Ways and Means Committee from raising revenue in any other way?

Mr. Latta. No.

Mr. Vanik. We could raise revenue.

Mr. Latta. That is correct. There is no restriction at all. They just delete that amount of money from revenues. I would point out this is going to be a test vote on this import fee and it will be a sense of Congress expression.

Mr. Vanik. Thank you.

Mr. Frenzel?

Mr. Frenzel. I have no questions of the gentleman. I would only observe that it is a great pleasure to have been here on the occasion of the first visit of the distinguished gentleman from Ohio to the Ways and Means Committee. Thank you.

Mr. Vanik. Thank you very much. We certainly appreciate your testimony.

Mr. Latta. Thank you, Mr. Chairman.

Mr. Vanik. Our next witness is Mr. Eckhardt of Texas, who is to be followed by Mr. Luken.

Mr. Eckhardt, we would be happy to have your statement, which will be in the record.

STATEMENT OF HON. BOB ECKHARDT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Eckhardt. Thank you, Mr. Chairman.

I will not read from the statement but ask permission for it to be put in in its whole for the record.

First I would like to say that I oppose the proposal and am one of the cosponsors of the disapproval resolutions. My objection to it is on economic grounds based on its inflationary effect. The result would be a 10-cent increase in the price of gasoline, which means an increase of about three-quarters of a percentage point in the inflation rate, as has been stated. This also causes a variety of cost-of-living escalators to increase, so that the Federal Government must adjust by spending upward of another $750 million as the result of those inflationary effects. All of this of course occurring at a time when consumers are suffering about an 8-percent per year inflationary trend.

Consumers paid an average for all grades of gasoline of 69 cents per gallon on January 1, 1979. But by the end of that year the figure had risen to $1.04 per gallon. Recently Hazel Rollins, Administrator of the Department of Energy's Economic Regulatory Administration, estimated gasoline prices would rise, with the fee included, to $1.64 per gallon by the end of the year.

However, predictions of the Lundberg Letter, a prestigious publication in the field of oil and gas information, are that the cost of gasoline by the end of the year will be $1.95. And I think the reason for the difference was indicated by Secretary Duncan's statement that the Rollins prediction, that of the DOE, was based on existing gasoline and oil prices and not on those which may change in the future.

The administration claims that the import fee will save energy and thus diminish our dependence on foreign oil, but the figures indicate that this proposal will save only 100,000 barrels per day of gasoline. This represents only 1.4 percent of our daily consumption of gasoline.

The American public is already conserving energy and the most recent statistic presented in the Energy Information Administration's weekly petroleum status report bear this out.

For the first 101 days of 1980, gasoline consumption ran at a level of 6,529,000 barrels of gasoline a day. Last year at this time we were consuming 7,116,000 barrels per day of gasoline.

Thus gasoline consumption is down by 8.2 percent over last year at the present time.

One may discover the reason for this if one observes the situation in my district, where a great number of people travel a long way to go to work and must conserve in the use of gasoline because it is heavily impinging on their family budgets.

Another concern that I have regarding this particular proposal does not relate to its likely economic impact but to the question that Mr. Latta touched on, and one of great concern to me, and that is, No. 1, does the President really have the authority under existing law to conbine his authority to impose a fee under the Trade Expansion Act and then to in effect absorb that fee and divide it up among refiners under the authority of EPAA so that it constitutes a tax on gasoline?

There is also the question that was touched on by this committee and that is even if DOE should give refiners who are buying foreign oil an entitlement to recoup their additional expenditures for that foreign oil of $4.62 per barrel, what is to compel them to recoup it from gasoline rather than recouping it from other products?

It seems to me that they could as well collect additional money through uncontrolled prices of middle distillates and of virtually all other products which are decontrolled.

It appears that the only discipline that the DOE, if you call it a discipline, can exert against the refiners is to urge them to pass the cost to gasoline.

But there is nothing that I can see that DOE can do to compel them, if they desire to do otherwise, Mr. Chairman, to recoup this amount from gasoline instead of from middle distillates and other products.

And I did not hear an answer from Secretary Duncan as to what would impel refiners to do so. He indicated a very great desire that that be done but he did not tell us how it can be compelled.

Now let me talk a little bit about the question of whether or not the President has authority to use these two statutes to come out with what is effectively a gasoline tax. First, there is no question but that the President has authority under the Trade Expansion Act to put a $4.62 import duty on oil. And as a matter of fact, that is an authority specifically granted him. Then we as a Congress are given specific authority to exercise our right under a disapproval resolution to say no.

The question is, can he translate that authority into a gasoline tax under the language of the EPAA?

Now I remember very well when we were dealing with this question in November of 1973 in response to the embargo and subsequent price increases of oil at that time. Old oil received a ceiling price of approximately $5.25 per barrel, new oil sold for about $11.50 per barrel, and imported oil carried the world price which was then about $12.50 per barrel.

What we were attempting to do is give access to refineries all over the country to what would be the equivalent of a mix of both the cheap oil at $5.25 and the more expensive, uncontrolled domestic oil and foreign oil at somewhere around $12 a barrel.

In other words, we were attempting to avoid a costly transport of oil from, say, an eastern seaboard refinery receiving mostly $12 oil to a midcontinental refinery and an exchange back and forth of the cheaper $5.25 oil accessible to the midcontinental refinery.

So instead of actually physically transporting that oil we gave the eastern refinery an entitlement and we created a burden on the midcontinental refinery to pay to the eastern refinery essentially the difference between what would have occurred if both refineries were receiving an even mix of the two types of oil.

Now, that was the total purpose of the entitlements program. Indeed, the language of the bill indicates that this was its purpose. This was in accord with the mandate to the President under the EPAA directing him to issue regulations to provide for equitable prices of petroleum throughout the country, to "prevent economic distortions", and to "foster competition" among all segments of the industry. That is what the entitlements program was for.

Now, it is true that it has been stretched to do several other things which have never really been brought into contest legally.

The entitlements program has been used for the purpose of giving a certain advantage to the Caribbean refiners to produce and to supply residual fuel oil to eastern seaboard users. It has also been used to attract additional imports of middle distillates. But the entitlements program has never been used as a basis for transferring funds in order to transform an import fee to a tax on gasoline.

It seems to me that this is a tremendous leap from the language and the intent contained in EPAA, which is to provide for equitable prices of petroleum throughout the country and to prevent economic distortions and to foster competition.

The purpose of this process is none of those things. The purpose is the conceived idea that by imposing a tax on gasoline its use will be lessened and we will ultimately be backing out imported foreign crude oil. It has nothing to do with equitable distribution as the EPAA had originally intended.

Now Mr. Chairman, I believe that Mr. Latta has put his finger right on the point. Whether or not I am correct as to my legal interpretations of the limitations of EPAA, I think there is no question but that we in this body are quite jealous of the authority to make a decision with respect to the making of a tax. This committee, I think, would not have provided authority for an import fee if they thought that the committee on which I serve, the Commerce Committee, in dealing with an entirely different subject matter had provided a vehicle through which an import fee could be transformed into a tax on gasoline.

Now, a tax on gasoline may be good or it may be bad—I personally think it would be bad particularly in these inflationary times—but argumentatively let's say it is a good thing. Should we not consider it in Congress before it is enacted? If we feel that we should consider it in Congress and receive testimony and witnesses from various segments of the country to determine how it impacts these segments of the country, then we should deny to the President the authority to impose a tax in this extremely circuitous way.

We should, I think, vote up the disapproval resolution and then consider the question of the desirability of a tax.

I thank the committee for hearing me on this extremely important piece of—well, perhaps legislation, perhaps Executive seizure of power.

[The prepared statement follows:]

STATEMENT OF HON. BOB ECKHARDT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman, members of the Trade Subcommittee, I want to thank you for allowing me to appear today to discuss the oil import fee, which the President put into effect earlier this month.

As you may know, I have joined with a number of my colleagues, including members of this subcommittee, in cosponsoring a resolution of disapproval that, if adopted, would overturn the President's action.

For a number of reasons, this fee warrants rejection by this subcommittee, and by the Congress

First, it is inflationary. The fee will add ten cents to the price of a gallon of gasoline, which will eventually add another three-quarters of a point to the consumer price index. Because of a variety of cost-of-living escalators, this increase in the Consumer Price Index will force the Federal Government to adjust spending upward by another 750 million dollars.

All this will occur at a time when consumers have already endured massive increases in gasoline prices. According to the March edition of the Department of Energy's Monthly Energy Review, consumers paid an average, for all grades of gasoline, of 69.8 cents per gallon during the month of January 1979. By the end of the year, that figure had risen to $1.04 per gallon. Three months later, by March of this year, the average price had continued to escalate rapidly, reaching a level of $1.22 per gallon.

We will soon be experiencing further major increases in the price of gasoline. Only recently, Hazel Rollins, Administrator of the Department of Energy's Economic Regulatory Administration, estimated that gasoline prices would rise, with the fee included, to $1.64 per gallon by the end of this year. Predictions of $1.95 gasoline have been made by the publisher of the Lundberg Letter, a respected publication that specializes in monitoring the activities of the petroleum marketing business. No matter which prediction proves to be more accurate, there is no doubt that in the months to come, the American consumer will be devoting an ever greater portion of his income to the purchase of gasoline. And yet we are now confronted with a proposal that seeks to add another 10 billion dollars to that constantly increasing economic burden.

The administration claims that the import fee will save energy, thus diminishing our dependence upon foreign oil. But the figures indicate that this proposal will save only 100,000 barrels per day of gasoline. This represents but 1.4 percent of our daily consumption of gasoline. So in return for increasing the rate of inflation, we are rewarded with a reduction in energy consumption of a magnitude unlikely to significantly contribute to the enhancement of our national security.

Moreover, the American public is already conserving energy, and the most recent statistics presented in the energy information administration's Weekly Petroleum Status Report bear this out. Through the first 101 days of 1980, gasoline consumption ran at a level of 6,529,000 barrels per day. Last year at this time, we were consuming 7,116,000 barrels per day of gasoline. Gasoline consumption, then, is down 8.2 percent over last year.

Another concern that I have regarding this particular proposal does not relate to its likely economic impact. As a member of the Full Commerce Committee and the Energy and Power Subcommittee when those bodies were intimately involved in the development of the entitlements program, I am deeply concerned that this program is being used for a purpose that was never intended by either the committee or the Congress.

As recognized in a number of court cases and in statements by administration officials, the basic purpose of the entitlements program was to distribute equitably the benefits of access to old price-controlled oil and the burden of dependence on uncontrolled oil among all sectors of the petroleum industry and all regions of the country.

Now, as you may recall, prior to the imposition of the first oil embargo in 1973, the acquisition cost of imported crude oil approximately equalled the cost for domestic crude. After the embargo, however, imported crude prices rose almost 400 percent to $12 a barrel.

In November of 1973, in response to both the embargo and to subsequent price increases, the Congress adopted the Emergency Petroleum Allocation Act (EPAA), which continued price controls on most domestic crude oil. Old oil received a ceiling price of approximately $5.25 per barrel, new oil sold for around $11.50, and imported crude carried the world price, which was then about $12.50 per barrel.

These price differences created a considerable disparity in the crude oil acquisition cost of domestic refiners; a disparity that either grew or shrank depending on the degree of access a refiner had to price controlled oil. East coast refiners, for example, were purchasing oil which came in by sea, whereas midwest refiners were buying great quantities of the less expensive domestic crude.

Rather than ship an equal quantity of old oil to the east coast and an equal quantity of imported oil to the Midwest, the entitlements program was designed to avoid the physical transfer of this oil by requiring the transfer among refiners of money computed on the basis of the price difference between lower priced "old" oil and higher priced "new" and imported oil.

This was in accord with the mandate to the President, under the EPAA, directing him to issue regulations to provide for "equitable" prices of petroleum throughout the country, to "prevent economic distortions," and to "foster competition" among all segments of the industry.

From its original goal of equalizing crude oil costs among refiners, the experience of the entitlements program under section 4 of the EPAA has been stretched to accomplish a variety of purposes.

For example, it has been used to encourage domestic production—the 1978 domestic synthetic fuel entitlements which allowed shale oil to earn entitlements on the same basis as imported crude oil. The entitlements program has also, on several occasions, been used to attract additional product supplies as with the east coast residual fuel entitlements of October 1978 and the middle distillate entitlements program of last summer.

However, the entitlements program has never been, nor was it intended to be used as a mechanism to direct what is in effect a 10 cent tax onto a given product, in this case motor gasoline.

Finally, the entitlements program promulgated under section 4 of EPAA was never intended to facilitate the raising of revenue for the general treasury, which this program will be doing at a rate of ten billion dollars during the first year.

Mr. Chairman, I would hope that every member of this subcommittee, including those who may eventually support the fee, will vote to send this resolution of disapproval to the Full Committee, and ultimately to the floor of the House.

In 1977, the Members of the House overwhelmingly rejected attempts to impose an increase of first 5 cents, and then 4 cents, on the Federal gasoline tax. This occurred at a time when we were experiencing 7 percent inflation. Certainly every Member of the House, when inflation is running at a rate of 18 percent, should have an opportunity to vote on a proposal that would raise the price of a gallon of gasoline by 10 cents. Thank you.

Mr. **Vanik**. Thank you very much, Mr. Eckhardt.

Mr. Frenzel?

Mr. **Frenzel**. Mr. Chairman, I have no questions but I want to thank our distinguished colleague for appearing before us and to note that we are interested in knowing what your committee is doing and the recommendations that it presents to us. And I hope that, whatever happens, our committees will be cooperative in developing a solution.

Mr. **Eckhardt**. Well, I might say that our committee just yesterday interpreted what I thought to be the original proper interpretation of the entitlements program in the authorization on the Department of Energy. We stated there, "No fund authorized to be appropriated pursuant to this act shall be used to develop, promulgate, administer, or enforce any regulation or order that requires an importer, refiner, reseller, marketer, or user of crude oil or refined petroleum product to make a payment to any person that has the effect of reimbursing any importer of crude oil or refined petroleum product for an import fee levied pursuant to any authority granted the President if such import fee was not in effect on March 1, 1980."

That was the Stockman amendment. I don't think it materially changes the act because I think it expresses the original intent, but there can be no doubt that if this passes in this form the entitlement programs may not be used to transform an import fee into a gasoline tax.

Now, I may say I don't think our committee in writing this language was invading the territory of your committee. In fact, we were protecting your jurisdiction by saying that what we had done on the entitlement program was not intended to usurp for the President the authority to levy a tax.

Mr. **Frenzel**. Yes, this is only for a 1-year authorization.

Mr. **Eckhardt**. Yes, sir.

Mr. **Vanik**. Mr. Eckhardt, you have always, and your opinions have always, carried a great weight in my deliberations on the energy matters. I know the serious depth of your concern and your study of the subject. I respect it very much. The basic thing that motivates me toward the bill or toward the idea of the import fee is our experience in the Congress in which the Congress will not impose a tax at all, not 1 penny, certainly not in a political year. So as far as I am concerned I have abandoned any real hope of the Congress of its own volition putting on a gasoline tax for any reason.

The States haven't been very responsive. The States could have derived a great deal of their revenues which they have got over the years. Through revenue sharing they could help conservation and increase their revenues and transfer of their taxes to gasoline. There we see a great resistance. Only a few States have really moved in that direction. I know the inflationary impact. I know how difficult it is. I am looking at my own estimates of gasoline prices and it frightens me. But I am also frightened by the multiple increase in OPEC prices we get every year. And historically they have said we must raise the price of imported oil we sell you for two reasons; one, your dollar has gone down in value and therefore we have to recoup and increase the costs so we recover the same amount.

Second, they said, well, we must increase the cost of imported oil because you don't restrain the use of it. Now, what do we suggest?

You know, I just suggested we do an opinion test of rationing in my district, just an opinion test. I mean, I just asked for a poll, and I was misquoted by a reporter who came out and said that I favored a test of rationing in my district among all of the countries' 435. And I couldn't even go back to my district for a while. So they don't want rationing. What they really want is gasoline at 1969 prices. And I understand that. And that is what I want. But that is not possible. So what do we do? What are the alternatives? Or don't you believe that OPEC and the oil producing countries that are not in OPEC might be influenced by our efforts to restrain consumption and by our effort to firm up the dollar?

I want to also tell you that I don't think we can balance the budget and firm up the dollar without this revenue. I am not kidding. I just don't believe it is going to be possible. I am going to vote, as we are all going to vote differently on the budget. I am going to vote against extravagant defense expenditures and try to maintain people needs, because I am concerned that we are going to need all of the resources we have to feed unemployed workers in many of the industries of this country.

Now, what do we do?

Mr. ECKHARDT. On your first question, Mr. Chairman, I think one thing that should have been done is the President should not have removed budget authority and outlays for the Conservation Bank from his January budget. His January Budget provided $247.5 million in budget authority for the Conservation Bank; under the March revised budget, the budget outlays and authority is zero.

Mr. VANIK. Well, what do we do?

Mr. ECKHARDT. Now that would have produced, according to our estimates it would have backed out about 20,000 barrels of oil per day, which is significant. And I would have moved more strongly in other areas toward conservation, which would have backed out much more than 100,000 barrels as proposed by the tax.

Mr. VANIK. I think this tax is going to have a very severe effect. We have already seen a complete erosion of our automobile industry in America and I don't think the automobile industry in America will ever again be what it was in 1977. I think it is going to permanently shrink by one-third perhaps as people will buy fewer cars and make them run longer and buy gasoline efficient cars.

This tax is going to increase the drift toward gasoline efficient automobiles and is going to make many people defer, I hope, buying a new car until better American cars are on stream, so they can buy a gasoline efficient automobile.

I think that in my experience, when I pay $30 at the gas pump to fill up, that I am not going to make trips as frequently as I did. I am going to try to carry more people in my car. We are doing that now. And probably when this takes hold, I might have to share the ride with a colleague whose philosophy I might otherwise disagree with, but we will have to manage to pool rides.

I see all of that in my own life. I took away this morning my winter insulation, so I could get some fresh air into the House. I mean, these are all things that all of us have to do. Now some people have testified today, some of my colleagues said, well, the 10 cents isn't enough to have any effect, but I think it is going to have a telling effect. I think this is the one that breaks the back. I think when this hits the streets a lot of people will probably buy roller skates or buy bicycles or cut back on some of their travel.

Mr. **Eckhardt**. Well, what you have said I think is borne out by the Congressional Budget Office. It says that a 9.7-cent-per-gallon increase in the price of gasoline could reduce the net demand for automobiles by 1.3 percent, or 150,000 units in 1980.

Mr. **Vanik**. I think that is conservative.

Mr. **Eckhardt**. Of course that is only this increase, and we are talking about a much greater increase when we are talking about the total impact.

Mr. **Vanik**. Is the budget analysis before the 10 cents?

Mr. **Eckhardt**. Well, this budget analysis is only with respect to the 10 cents. You have to remember we are talking about an increase from $1.22 to about $1.64 between now and the end of the year, in the most conservative estimates. And so only approximately 10 cents of that 40 cents difference would cause this decrease.

Mr. **Vanik**. Well, there are other things we can do. Now Singapore fines anybody with less than four people in the car. They fine them $10. In Eastern Europe they are back to the horse and wagon. You see trucks and horses but not many automobiles running around. Poland, they don't ride automobiles in Poland, they polka to work and back. It has come to that sort of thing, because the gasoline is just so expensive.

Now, you know, I just don't see us arriving at really substantial solutions without some dramatic action.

Mr. **Eckhardt**. I think you put your finger on the exact point and that is if the action is dramatic then it also has certain dramatic effects. And there is a serious question in my mind as to whether our economy can stand these radical changes within a relatively short period of time.

Mr. **Vanik**. Well, it has been 8 years now.

Mr. **Eckhardt**. We are not just talking about a 10-cent tax.

Mr. **Vanik**. You see, it has been 8 years. It was 8 years ago that I introduced the first tax that was introduced in any Congress taxing the gas guzzler. And my newspaper said Vanik favors the foreign cars. That is the interpretation they gave to that. Eight years and the industry hardly budged toward providing gasoline efficient cars. I happen to believe there isn't any more efficient way to travel even with mass transit and the capital costs. There is no more efficient way to travel than getting four people in the car and going to work together.

The other way is to try to get them closer to their jobs. We have all had 8 years now and how many people have tried to move closer to their jobs and tried to adjust their lives to really get with it, that this is a permanent, lasting problem that confronts our people.

Mr. Eckhardt. Don't you think that an increase from approximately 70 cents at the beginning of 1979 to the most conservative estimate of $1.64 by the end of 1980 is a pretty dramatic increase and that is likely to have a considerable response? We already have had an 8-percent decrease in gasoline use between last year and this.

Mr. Vanik. Well, do you believe that the OPEC nations and the oil producing countries that are not OPEC will continue to come along with their multiple increases of oil prices?

My hope would be that this action would be a deterrent. That is the only sense that it makes. If we——

Mr. Eckhardt. I am assuming they won't increase.

Mr. Vanik. You have got to assume they will.

Mr. Eckhardt. If you assume they will——

Mr. Vanik. You will have to assume they will.

Mr. Eckhardt. If you assume they will we may be talking about close to $2 gasoline by the end of the year.

Mr. Vanik. You have to assume they will, unless we establish a climate that erodes their basis for doing it. They said in the past we have increased oil because the dollar has gone down in value and we want to cover the inflation.

They said, second, we are going to raise the price of our oil because you aren't doing enough to control the use of it. This is what they said. Then people time and time again have made these statements. Now I think we ought to call them on it. I am just sorry we didn't negotiate with them and try to get a commitment they wouldn't raise their prices if we or other nations in the world took this kind of action.

I think they ought to be called on their statements that they had to raise because of the depreciating dollar and because of the continued unrestrained use of oil. Now, I think we ought to answer that. And the only sense that this action makes is that it would constitute the most substantial step that we would take.

Now, the other point I make, some of my colleagues here say let's decontrol oil all the way, do it right away. Well, that is simply going to mean the price will go up and the money will go to the oil companies. My feeling is if they are determined—and I mean OPEC and the oil producers of the United States—to get from us all the market will bear. They know what the market will bear and they are going to get all the market is going to bear. And if the Government, the public, gets 10 cents off it, it is the public that gets the 10 cents for public purposes, either to balance the budget or to reduce social security, or to provide rebates to the people, to the poor. If we pick up that 10 cents it is 10 cents that the oil companies will not get. It is 10 cents, that they will not have to add to their profits, which we don't tax very well. Our record in taxing oil is terrible. And I don't think it is going to get any better, the windfall tax notwithstanding. I have really given up. I would be shocked if there isn't some loophole that we have let into the windfall tax, that make it possible for them to walk out without paying very much.

So, in a sense, what you do when you take this 10 cents and put it to the public use for public purposes, is to reduce the debt, to reduce social security taxes; you are just taking 10 cents they are going to add to the price, whether or not we do anything here. So what we are doing is moving into some of the price content, which they are going to get, whether we move or whether we don't.

Now, don't you believe they are determined to get everything they can from us as consumers one way or another?

Mr. Eckhardt. Yes, sir.

Mr. Vanik. So if we don't get the 10 cents for the Treasury and the people, they will take it.

Mr. Eckhardt. I think what we have done in this country, and I think it has been a terrible mistake, we have jawboned up inflation in gasoline. And we have also permitted activities by the oil companies that accomplish this.

For instance, the so-called shortage of gasoline at the beginning of 1979 was what permitted this increase from 70 cents to over $1 in that year because people were more anxious to get gasoline at any price than anything else. I mean they were willing to pay because they thought they had to. And all the time our Government was saying, look, we may be running out of gasoline and oil and we need to encourage it, we need to take off controls in June so we will produce more. The real truth is that there were more wells drilled, there were more drilling rigs active in the field, and there were more geodetic crews exploring for petroleum after we passed the controls on oil in 1975 than there had been during the previous several years.

Mr. Chairman, I think I agree with you on many things, certainly on the control of price of oil and gas. But I don't agree that would take the same amount from the public without the tax as they will take with the tax.

Mr. Vanik. Well, I just want to say this: I will put a prediction in the record that if the oil import fee is cancelled out by action of Congress, I will put a prediction that that notwithstanding, the price of gasoline by the end of this year will be $1.60. And that is a prediction that I will put in the record. So we will see who has worked out right on it.

My feeling is that it is going to be——

Mr. Eckhardt. Mr. Chairman, you are setting the terms. I think the price, if we do put in the fee, will come nearer $2. If we don't put in the fee, the price will be around $1.90.

Mr. Vanik. Well, you just testified it would be $1.64.

Mr. Eckhardt. No, I said that was Rollins' prediction, and that was assuming that there would be no further OPEC increases.

Mr. Vanik. Well, I can't say, but my feeling is if this fee is not sustained by the Congress, that the price of gasoline will be at the same level as though the fee were there. So we will just watch that, and I will be able to come back before your committee as a citizen witness and say, "Well, now, Mr. Congressman." We may have a chance to do that.

I want to thank you very much, Bob. I certainly appreciate your careful study of the whole issue. I went into this colloquy with you.

because I so highly value your judgement and your very keen and careful analysis of the whole issue. And it does have a tremendous effect on me. I wanted you to know that I value your counsel and your opinion very, very highly.

Mr. Eckhardt. Well, that, coming from you, is very, very complimentary.

Mr. Vanik. And my association with you has been one of the joys of my service. Thank you very much.

Mr. Eckhardt. Thank you, Mr. Chairman

Mr. Vanik. Our next witness will be Mr. Luken of Ohio.

Your entire statement will be admitted into the record as submitted.

STATEMENT OF HON. THOMAS A. LUKEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. Luken. Thank you, Mr. Chairman.

I have had the privilege of being here for part of the Secretary's testimony and that of my colleagues, and there isn't a great deal I could add. I would like to comment in addition to the prepared testimony which you have accepted that this House has considered the question of gasoline taxes in nonelection years and has turned it down. So it is a question of how many times we have to kill this snake.

I don't think that the President has the right, if we look at it other than a purely legal right, to use this device. He knows that the Congress has the sole power to instigate, to initiate taxation. It is clear from the testimony and the way this has been devised, that he is using an import fee as a method of taxation. It has been roundly denounced and I second that denunciation. It is not just a question of congressional privilege. I think it is a question of the way the Constitution works out and also a question of the way representative government works. I don't think the President has the right simply because it is an election year and the Congress, acting in its representative capacity in an election year or any other time feels that it should be responsive to its constituency and disapprove of this kind of taxation, that the President should come through by some sort of sovereign act and impose this kind of taxation.

Another point that I would like to make is that I am also a member of the Commerce Committee and support the actions of the full committee which took the action yesterday mentioned by my colleague, Mr. Eckhardt. But I should point out that this limitation will not go into effect until the end of the current fiscal year. And I hope that this committee, the Ways and Means Committee, would move forward with this limitation so that immediately or as soon as possible the President will be deprived of this power and that a disapproval will in fact be issued.

One other point as far as the OPEC is concerned, OPEC is a cartel, it is a monopoly. They have learned that they can charge more for less. I certainly want to make the point that the 10 cents per gallon will be tacked on to whatever charges that OPEC wants to inflict upon us and that it will be an additional charge, and it will not be a replacement charge.

Also as a member of the Small Business Committee and as chairman of the Energy Environment, Safety, and Research Subcommittee, I can plead that the impact of this fee on small business will be enormous. I can also second the statement that it will outweigh any possible benefit, that the independent gasoline marketers are going to be suffering by increased costs of their inventory; and that a serious question exists. Currently Sohio gasoline in Ohio and BP gasoline in this area is selling for 15 or 20 cents below what the other oil companies are charging. And this is simply because of a distortion which occurs in the entitlements program.

So there is no guarantee that this plan is going to work out, this utilization of the entitlements program to carry out a taxation on gasoline. And to leave heating oil, for example, free of increased prices, that is going to work out either in the mechanics of it or on the overall aspect of it because heating oil is not controlled. So the oil companies are going to control how much they charge for heating oil. If the demand curves change and if there is an increasing supply of gasoline as there is now then that maintains the overall effect that the oil companies are going to control the price and that this 10 cents import fee is actually going to be inflicted not just on the gasoline users, but on users of middistillates, and on the users of home heating oil.

So, Mr. Chairman, I thank you for the opportunity to testify. And I do urge the committee to move ahead and to issue this disapproval resolution.

[The prepared statement follows:]

STATEMENT OF HON. THOMAS A. LUKEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

The President's fee on imported oil is wrong on two counts. Ironically, it is part of his anti-inflation package, but it is very inflationary. Moreover it is billed as a conservation measure, but there is little evidence to justify the conclusion that it will actually reduce the consumption of gasoline.

Clearly, the intent of this plan is a tax-raising scheme designed to help balance the budget. Although I strongly support a balanced budget, I do not feel that raising taxes is the solution to balancing the budget—that answer comes from cutting government spending. Yet, Mr. Carter is proposing a plan that will cost the American consumer more than $10 billion a year in return for an estimated reduction of one-half of one percent of daily oil usage.

The people of this country should not have this kind of conservation forced down their throats. With gasoline prices having risen over 70 percent in the last 14 months, consumers are already conserving. A 10-cent per gallon of gasoline increase from an import oil fee would do little more to further conservation. It would, however, help to increase inflation. During these inflationary times, the President should not be proposing a plan that is counterproductive to any anti-inflationary goals.

As Chairman of the House Small Business Energy, Environment, Safety, and Research Subcommittee, I am particularly concerned with the impact of the import fee on small business. Those small businesses directly involved in petroleum products, independent gasoline stations and oil jobbers, will be affected—with many going out of business. Other small businesses, reliant on gasoline for their operation, will find it increasingly more difficult to meet their expenses. This will cause layoffs and other economic hardships for these firms and their employees. Certainly these costs will more than outweigh any possible benefit.

This program is also adding to the financial problem of independent marketers by increasing the costs of their inventory. To carry inventory, most jobbers and terminal operators require bank financing. Other economic actions have pushed the interest rates on this financing to the 20-25 percent range and have caused some banks to tell their independent customers there is no additional credit available for them. Major companies do not face these credit problems and indeed can look to the inventory markup as a substantial source of profit.

Additionally, this program has nothing in it which will guarantee that the 10-cent fee will wind up on gasoline. In the very complex economic equation of demand curves for the various product slates at different price levels, the simplistic analysis of the Department of Energy will undoubtedly fall apart. If there are higher prices for gasoline, and demand for diesel fuel increases, some of the cost of the fee could easily be shifted to diesel.

Likewise, if gasoline demand declines and home heating oil demand increases because of a cold winter, the net increase could come on home heating oil.

And, then there is the question of program administration. There are serious doubts the Department can organize to do the job efficiently.

There have been many fears expressed about the calculation of the numbers in making certain that the money moves as the proclamation of the President announced that it will. Suffice it to say that this and other committees of the House of Representatives have searched in vain for ways to patch the existing crude oil entitlements program. We all know that the program is riddled with abuses and problems, and the only successful federal prosecution for abuses to date has come when the company involved admitted its guilt.

Congress should face up to this question and make the decision on its own. It must prevent the usurpation of the power to tax, especially a usurpation which is so artlessly camouflaged. It must prevent the Administration from removing energy programs from Congressional scrutiny by making them Executive actions cloaked in Executive privilege.

Finally, the DOE authorization bill, which contains constraints against the implementation of this tax on gasoline, will not be in effect until October of 1980. Therefore, the only way to stop this tax from going into effect, and to prevent this move to exacerbate inflationary pressure, is to take action in the form of legislation to cancel the President's power to impose the license fee. I urge the Committee to adopt such legislation.

Mr. VANIK. Thank you very much.

Mr. Frenzel, any questions?

Mr. FRENZEL. I have no questions.

Mr. LUKEN. I have been before this subcommittee previously and I came back. I always get treated so well.

Mr. FRENZEL. We hope you come back.

Mr. LUKEN. I am leaving, sir.

Mr. VANIK. I know. You are opposed to this.

What are you for, the present status, just leaving things as they are?

Mr. LUKEN. Well, we are dealing with this particular item——

Mr. VANIK. Downey wants to roll back gasoline prices to 1969.

Mr. LUKEN. Well, I am opposed to decontrol.

Mr. VANIK. I know you are.

Mr. LUKEN. I don't believe it is right for the Government to carry——

Mr. VANIK. I would gather you feel that present policies are enough?

Mr. LUKEN. I don't approve of present policies, because I don't approve of decontrol.

Mr. VANIK. But they are already with us. You and I voted against decontrol; that is already behind us. We were overruled; we lost that one, so now we are in a situation in which the one thing that is offered here for changing the circumstances is the President's desire to put the import fees on.

I take it you feel that is not necessary, that doing what we are doing is enough to handle the problem of OPEC price increases?

Mr. LUKEN. I think we ought not to have decontrol. If we did not have to decontrol, then there might be some latitude for a direct taxation which would be carried out through the ordinary processes and would be by vote of this Congress. The fuel efficiency standards which this Congress has enacted are a good example of congressional action. I remind my constituents and others who complain and belabor the Congress for recognition, that if it had not been for the action of Congress, we would be in a lot worse shape than we are as far as fuel efficiency of our automobiles.

I think we should certainly be moving in that area at an even more rapid pace.

Mr. VANIK. About the budget balancing process, you are supporting that, I suppose?

Mr. LUKEN. I am supporting the general resolution.

Mr. VANIK. The question that passes through my mind, from what I can determine they are going to need about $3.5 billion of this money to really balance the budget. If you believe that we can do it without getting any more revenue, maybe we can work it out, but I am concerned as an urban representative that the great cuts are going to come in the areas of the greatest need, and I am just dreadfully concerned—we have to weigh paying for gasoline by these people who drive cars against the needs of those people who may be running out of food stamps for life, who may be running out of heat for their homes, who may be running out of support payments for their families.

This could be a critical contribution to saving our communities as we conserve. I don't think the budget balancing process is possible without added revenue.

Mr. LUKEN. It depends on whose figures you accept.

Mr. VANIK. Those are my figures, Tom, and I have not often been wrong. I have much more often been right than the President's advisers.

Mr. LUKEN. I did not challenge your figures. They are close enough that even without the weight of authority which well might be in your favor, or the benefit of analysis, they are close enough that either one could be right.

We are only talking about a small percentage, but the weight of this is not going to fall just upon the wealthy, and it is not just for gasoline for the kids to drive around on Saturday night. Most of my constituents drive to work and drive distances, and it is essential. Only 15 to 20 percent in the foreseeable future can get on rapid transit, as the chairman pointed out, so it will fall on the working people and not those in the very affluent class to bear the brunt of the proposed oil import fee.

Mr. VANIK. Thank you, Tom. We appreciate your testimony.

At this point I would like to put in the record the testimony of Congressman David F. Emery of Maine.

Without objection, his testimony will be placed in the record at this point.

[The statement follows:]

STATEMENT OF HON. DAVID F. EMERY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. Chairman, the purpose of these hearings is to explore the administrative procedures and impact of the President's oil import fee. This, in itself, will be a monumental task. However, our purpose has been greatly complicated by a disturbing new element: the reluctance of the Department of Energy to turn over to the Congress material that relates directly to the question of whether the fee can be confined to gasoline, or whether it will be reflected in the cost of all petroleum products, including home heating oil.

We can only assume that if the material in question supports the Administration's position, we would have seen it by now. Since we are now forced to talk in terms of subpoenas and other similar measures, we must now assume that the material is damaging to the President's case for the oil import fee.

The Congress is always interested in information that sheds light on the Byzantine workings of the Department of Energy. But the Administration should know that by limiting access to documents relating to an initiative as controversial as the oil import fee, they are only making us more curious.

Whatever the mysterious documents say, the Administration's reluctance to turn them over will reinforce the American people's skepticism about the wisdom of this oil import fee—as well it should! This fee was born of a dubious logic which says that, with gasoline prices creeping closer to $2 per gallon, an additional 10 cents per gallon will make the difference between waste and true conservation. Few people seriously believe that an increase of 10 cents in the price of gasoline will force this country to go on a crash energy diet. The President's own figures predict only a 1 percent (100,000 barrels per day) reduction in America's gasoline consumption as a result of the oil import fee. This negligible reduction will come at a cost conservatively estimated at $29 million a day—or at least $290 for each barrel of oil conserved. The President himself predicts that this cost will produce a 0.75 percent jump in the Consumer Price Index, bringing the country closer to a 20 percent inflation rate. This, I might add, is from the President who removed oil import fees two years go, calling them inflationary.

As the OPEC oil ministers prepare for their June meeting in Algiers, they must be looking in wonderment on an Administration that, on one hand, sends highranking Cabinet officials to plead for moderation in oil pricing while, on the other hand, imposing a $10–$12 billion oil price increase on consumers. Surely this logic is as lost on the OPEC nations as it is on the American people.

All Americans must question the wisdom of pricing petroleum out of reach before we have developed alternative resources. Perhaps we would be more favorably inclined toward this fee if some of the funds generated were earmarked for expansion of domestic energy production and development of new resources. This, unfortunately, is not the case.

In fact, it appears as though the President intends to use these funds solely to help balance the Federal budget. Naturally, the Administration is not publicizing this fact, but it is important for the American people to know that this import fee will contribute more to certain budget initiatives than it will to real energy conservation.

Because of my deep concern about the effect this fee will have on our weakened economy and on our efforts toward energy self-sufficiency, I have become involved with several measures designed to block this confiscatory tax. On March 27 I introduced a "sense of the House" resolution, intended to mobilize Congress against the import fee. I am pleased to report that there are now over 107 co-sponsors for this resolution, representing a broad coalition of liberals and conservatives, Democrats and Republicans. I am also one of the original eight co-sponsors of House Joint Resolution 531, which, in conjunction with Senate Joint Resolution 159, will nullify the President's authority to impose the fee under a provision of the recently signed Windfall Profits Tax Act. This initiative now has over 70 co-sponsors.

By now, it should be clear to President Carter and the Department of Energy that the import fee is in trouble. My Colleagues and I have gotten the message from our constitutents, and it is unmistakable: artificially increased gasoline prices will have no effect on legitimate need, other than to aggravate an already desperate situation. Higher prices without increased production will only create hardship and despair among those Americans who have already had more than their share of both. The American people are willing to conserve energy, but they need positive leadership and direction, not punitive price increases.

Mr. VANIK. Our next witness, and our last for this morning's session, is David Stockman, our colleague from the State of Michigan.

Dave, we are happy to have your testimony. We appreciate your waiting. Your entire statement will be admitted in the record as submitted, and you may read or excerpt from it.

STATEMENT OF HON. DAVE STOCKMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. STOCKMAN. Thank you, Mr. Chairman.

I appreciate this opportunity to testify, and your willingness to hold these hearings.

Like many of the others who have come before me this morning, I strongly oppose the oil import fee plan, for the commonsense reasons that I think are shared by a majority of our colleagues, and a predominant majority of our constituents. I don't think you help fight the Nation's worst peacetime inflation in history by raising the cost of the most rapidly rising item in the entire consumer price index.

I don't believe we reward the American public for its impressive voluntary conservation of gasoline in the last 12 months—as the chairman knows, it is down 10 percent in April from a year ago, some 700,000 barrels a day less gasoline used—by extracting another $100 per year in gasoline taxes from family budgets that are already straining under the twin problems of declining real income and rising real tax burdens.

Mr. Chairman, I think, more importantly, my real objection to this proposal concerns the timing and the short-run impact on the consumer price index and the inflation psychology in the country today.

I think the impact and the timing in themselves are disastrous. My reason for suggesting this is twofold: First, I would suggest that in terms of the underlying factors, the inflationary momentum in the economy crested in the first quarter and is now beginning to come down.

Oil prices are stabilizing somewhat throughout. Commodities from sugar to copper declined drastically since February, and the rate of monthly increase in the wholesale price index should begin slowing dramatically with this month's publication.

I believe these trends will insure a significant abatement of the 18-percent consumer price increases that we have experienced during the first 3 months of this year by May or June, thereby promoting restraint in wage and price demands and in inflation premiums that are being demanded generally as people try to keep up with the consumer price index.

I would like to suggest today that the 10 cent gas tax will hit the CPI as an instantaneous one-time shot when it begins to enter the market in May and June. While 10 cents per gallon itself only amounts to an 8-percent increase in the retail price of gasoline in absolute terms, on an annualized basis when it hits it will be just like a 96-percent increase in the price of gasoline as it is read out in the monthly consumer price index publications.

I think the key point I am trying to make here is that this is not phased in 1 cent a gallon over a year. It hits all at once, 10 cents in one bulge, not only in the marketplace in terms of what people have to pay but even more importantly as one bulge in the consumer price index shortly after it takes effect.

Now to indicate what I think would be the impact or magnitude of this on the reported monthly consumer price index figure, just consider the following basic facts. In the consumer price index gasoline has a weight of only 4.8 percent. Everything else has a weight of 95 percent. If by June other prices—the 95 percent outside of gasoline—have slowed down to a rate of 13 to 14 percent increase in annual terms without the gas tax we would have a clear abatement, a reduction in the trend level of inflation as the public perceives it and as the consumer price index measures it. But with this one time jump during May or June in the gas index, the CPI is going to hang in the 7 to 18 percent range for a month or two longer.

In my view this could not come at a more inopportune time in terms of its impact on the economy. It will have two very undesirable effects. One it will further depress consumer confidence and exacerbate the abrupt fall-off in purchases that is already underway, especially in big ticket items. That will worsen the recessionary momentum in the economy and, second, it will intensify compensatory wage and price adjustments and thereby prolong the inflationary momentum that is under way.

So in short I would like to suggest to the committee today that no single policy step could be better designed to exacerbate the stagnation cross-pressures that afflict the economy today than this import fee proposal and its suggested timing in the May-June period of this year.

The second question that I would like to address is how did presumably rational men down at the White House, the Council of Economic Advisers and the Treasury Department come up with something so utterly counterproductive? I think the answer that I would give to this committee is that those who designed this proposal were pursuing an entirely different logic and train of analysis than most of us would employ.

We would look at it in terms of a straightforward cost-price inflation chain but they have looked at it far differently. Their analysis works through the volumetric level of oil imports and world petroleum prices. The argument for this proposal that I think needs to be countered if we are to effectively repeal it—the argument for this proposal basically says that if we can reduce demand for U.S. imports by 150,000 barrels per day the alleged impact of this higher gasoline price will further soften world petroleum markets and in turn lead to a lower world oil price than would otherwise be the case.

That in turn would mean lower prices for both our imported volumes of oil as well as our domestic crude since under decontrol more and more domestic crude prices are tied to the world level.

Consequently you would get a deceleration all through the downstream price train from Saran wrap to motor gasoline. I would suggest to the committee that that is a nice theory but it ignores three rather important facts of life. First, if you lower U.S. import demands 150,000 barrels per day it will not result in a lower world oil price and therefore less U.S. inflation.

If some sheik in Kuwait or Arabia or Qatar offsets that reduction in our demands with a production cut in equal amount or 150,000 barrels a day, under those circumstances there would be less demands, less supply in the same price of world market and it would not do us any good whatsoever in terms of lowering our inflation rate here.

Second, if you lower U.S. import demands by 150,000 barrels per day it will not result in a permanently lower world price if consumption increases in South Korea, Brazil, Romania, or anywhere else around the world. I would suggest that too is a distinct possibility.

In short, I would suggest to the committee that the same folks who have been tinkering around for the last 6 years unsuccessfully trying to control U.S. oil prices now believe that they can take on an even more ambitious task and manipulate world oil prices by sending 150,000 barrels per day of conservation out to do battle with the 52 million barrel per day world market. I would suggest to the committee that reminds me somewhat of the mouse which warned the elephant that it had rape on its mind.

Finally, I would suggest to the committee that compared to the larger trends at work in the United States and world market today, this import fee proposal is simply a costly asterisk that won't make much difference. Total petroleum demand in the United States at the present time is running more than 1.57 million barrels per day below last year. That is a decline of nearly 10 percent.

Thus on an across-the-board, price-induced basis, the conservation gains that are already being achieved by the workings of the marketplace are 15 times greater than the purported gains that we would derive from this gasoline tax and oil import fee.

As a result of this dramatic reduction in U.S. petroleum demands and consumption, our inventories of both crude and petroleum products are at an all-time high. They are 175 million barrels higher than they were in this month last year.

The result of that drastic decline in consumption and this historic high buildup in inventories at the refinery and downstream levels is that imports are being squeezed out of our economy at an unbelievably rigid rate in recent weeks and months. As a matter of fact during the last month or so U.S. imports, both crude and product, have fallen as low as 6.5 million barrels per day, or more than 2 million barrels per day lower than would be normal for this time of the year.

So what I am trying to suggest to the committee is that the job is already being done impressively through the adjustments that are occurring in the marketplace, lower demands, inventory buildup, reduced refinery returns and drastically reduced purchases of oil on the world market. That is already taking 2 million barrels per day of demand out of a world market that is beginning to be saturated with surplus supplies and inventory buildups everywhere.

So in terms of the purported rationale for this proposal, it is simply irrelevant. A far more effective job is being done by the marketplace. This suggests to me that the bottom line on this proposal is far different. It is obviously not an effective anti-inflation tool. It is irrelevant as a conservation tool, and when all is said and done what it really is is an undisguised revenue raising measure designed to help balance the budget by further extractions from the already overburdened American taxpayer.

I think the committee ought to reject it and I would hope that you would report a resolution of disapproval so that this could be prevented from going into effect in May and June and having some of the undesired and very ill-timed effects that I have tried to lay out here today.

Thank you, Mr. Chairman.

Mr. **Frenzel** [presiding]. Thank you, Mr. Stockman.

I would ask you questions except I am afraid you would answer. The committee appreciates your testimony.

Our colleague, Mr. Roth from Wisconsin is our next witness and he has promised to be very brief or he will be speaking to an empty hall.

STATEMENT OF HON. TOBY ROTH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. **Roth**. Thank you, Mr. Chairman.

I do promise to be brief. I am very grateful for the opportunity to join with you and my other colleagues at this hearing. It is a pleasure to present my views in strong opposition to the President's proposed oil import fee. I would just make four points.

The first point I would make is that one of the most significant characteristics of this proposal is its inflationary impact. Consumers are already suffering from unbearable energy cost. The price increase is inconsistent with the anti-inflationary program. The price of gasoline alone has gone up almost 105 percent since April 1979. We should be working to decrease not increase energy prices.

The average driver will pay $75 a year more for gasoline as a result of this import fee. In rural areas like my own district, costs will be appreciably greater for each driver. In short there will be an upsurge in inflation for our consumers who are already paying a staggering price and this also will tend to cause more inflation.

Second, this proposal is really a wolf in sheep's clothing. Stripped of all its trimmings it is really a revenue measure—a tax increase—rather than a conservation device. This purported $10 to $12 billion increase is really I believe to help balance the budget.

Imposing a new tax, I believe, is not the way to fight inflation or conserve energy. Such a measure will push wage and material costs higher and trigger more price increases. The energy saving which the administration estimates at 100,000 barrels a day, will mean the taxpayer is paying about $345 in new taxes for every barrel saved. Americans need a tax cut not a tax increase. Reduction of Government spending is the way to balance the budget.

Third, the proposal will have little effect on gasoline consumption. And fourth I would add that apart from the inflationary aspects there are some seriously adverse impacts on the Nation's general economy.

In summary, this proposal would also provide a strong signal to OPEC that the American consumer is willing to tolerate further price increases on top of the gouging that already exists. For these reasons, Mr. Chairman, I hope that the committee will act in accordance with the request made by myself and my colleagues.

[The prepared statement follows:]

Statement of Hon. Toby Roth, a Representative in Congress From the State of Wisconsin

I am very grateful for the opportunity to join with you and my other colleagues at this hearing. It is a pleasure to present my views in strong opposition to the President's proposed oil import fee. The Committee should be commended for studying this matter, your hearing is particularly timely.

In presenting my statement today, I would like to emphasize 4 key points:

I. ONE OF THE MOST SIGNIFICANT CHARACTERISTICS OF THIS PROPOSAL IS ITS INFLATIONARY IMPACT

For only marginal savings in energy there will be an immediate ten cents per gallon increase in the price of gasoline. This added to the cost of doing business which will be passed along to the consumer will actually add three quarters of a percent to the current oppressive rate of inflation even by the Administration's own estimates. Consumers are already suffering from unbearable energy costs. The price of gasoline alone has increased about 105 percent since April 1979, an increase inconsistent with the anti-inflation program. We should be working to decrease, not increase, energy prices. The average driver will pay $75 more a year for gasoline as a result of the import fee. In rural areas like my own district, the cost will be appreciably greater for each driver. In short, there will be an upsurge in inflation for consumers who are already staggering from recent price increases.

II. THIS PROPOSAL IS REALLY A WOLF IN SHEEP'S CLOTHING

Stripped of all its trimmings it is really a revenue measure—a tax increase—rather than a conservation device. The President described this $10–$12 billion increase as a margin of safety against the 1981 budget deficit. He wants to balance the budget by raising this special tax, in addition to increasing the income tax. This tax—a regressive one—is the worst kind. It will be especially harmful for the poor and the working person. Imposing a new tax, I believe, is not the way to fight inflation or conserve energy. Such a measure will push wage and material costs higher and trigger more price increases. The energy saving which the Administration estimates at 100,000 barrels a day, will mean the taxpayer is paying about $345 in new taxes for every barrel saved. Americans need a tax cut not a tax increase. Reduction of government spending is the way to balance the budget.

III. THE PROPOSAL WILL HAVE LITTLE EFFECT ON GASOLINE CONSUMPTION

The cure will be worse than the ailment. Even the administration expects gasoline consumption to be reduced about 100,000 barrels daily, which is one-half of 1 percent of total U.S. consumption. This is an enormous price to pay for so little savings of gasoline. Conservation is already taking place based on soaring energy prices. Americans used 5.3 percent less gasoline in 1979 than in 1978. And nearly 8 percent less the first quarter of 1980 compared to the same period in 1979. There is a realistic limit to conservation in the shortrun because of the nature of U.S. society and its economy. Forty percent of all U.S. driving is work-related. This proposal would unfairly discriminate against those who must drive long distances for work.

IV. APART FROM THE INFLATIONARY ASPECTS THERE ARE SOME SERIOUSLY ADVERSE IMPACTS ON THE NATION'S GENERAL ECONOMY

People will have less to spend on other items. The inflationary and tax effects will serve as a drag on the U.S. economy. Increases are likely in unemployment and industries/activities that are heavily dependent on gasoline, e.g. tourism. The cost to farmers and ranchers alone will be about $350 million a year, which will further increase the high price of food. America needs a growing economy in order to balance the budget and lick inflation.

In summary, this proposal would also provide a strong signal to OPEC that the American consumer is willing to tolerate further price increases on top of the gouging that already exists. Furthermore, there is a strong consensus that administration of this proposal would be a regulatory nightmare. There is no way to assure that the import fee would be passed along to consumers only on gasoline and not added to the price of other refined products. Moreover, this proposal adds more government control, interference, and redtape, all of which is costly and unnecessary. For these reasons, I hope the Committee will act to insure that this most recent ill-advised scheme of the Carter Administration is stopped.

Thank you.

Mr. **Frenzel**. Any requests made so briefly are always acted upon first.

Thank you very much. We appreciate your being willing to compress your statement and we appreciate the quality of it as well. Thank you.

Our colleague, the gentleman from Vermont, Mr. Jeffords.

STATEMENT OF HON. JAMES M. JEFFORDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VERMONT

Mr. **Jeffords**. Thank you, Mr. Chairman.

Those glowing words about the added quality of a brief statement impressed me. I will try to outdo my predecessor in hope of an even better response.

I will make two points. First, I think we should look at the whole perspective of what is happening with energy price inflation when we look at the President's proposal. Those figures have not been bandied about because nobody likes to look at them. But in checking with CRS our figures indicate that, from oil price decontrol alone, we are going to have an increase of 25 to 35 cents a gallon next year.

That in itself will add 2 to 3 percent to the inflation rate. If you add on top of that the President's oil import fee, you are going to add another 10 cents a gallon at least to gasoline. How he will restrict the increase only to gasoline I am not sure. In all, we will see a 35- to 45-cent-per-gallon increase, a burden which the American consumer may not be able to bear in that area.

I think we should look at the total perspective and realize that this is just too much. We have done enough. I disagree with what has been done in this area anyway, but we certainly have hit the consumer hard enough with decontrol. To put this additional burden on is unthinkable.

Second, to me it represents a signal to OPEC that we are not happy with what you have been charging us. We would like you to charge higher prices in order to help us with conservation, so we will add another $6.62 a barrel and we would appreciate it if you would heap a little more on. It would help us out in this country.

I think the oil import fee will be very counterproductive in those areas. That is it, Mr. Chairman.

Mr. **Frenzel**. You get the first prize for your testimony. I might add the Secretary who testified before you also corroborated your statement. He was unable to tell us how he would confine the fee to gasoline purchase.

Mr. **Jeffords**. I can't imagine the horrendous bureaucratic machinery that would have to be set up to do that and what impact it might have in other areas. I think we cannot know.

Thank you.

[The following was submitted for the record:]

STATEMENT OF HON. PAUL FINDLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman, the present Administration is trying to milk the energy crisis. President Carter sent Congress an energy tax proposal soon after he took office three years ago. We did not approve that tax. Now he is taxing oil imports by executive decree.

I saw a cartoon three years ago that comes to mind. General George Washington, who in the cartoon looked like Jimmy Carter, was in his tent during the winter at Valley Forge. He was bundled up to keep warm. An aide came in saying, "General, the troops are short of firewood." The General's answer: "Quick, put a tax on firewood."

That cartoon applies more today than it did three years ago. Taxing a commodity in short supply is one of the least creative "solutions" to a problem I can think of And opposition by the American people to the tax on oil imports shows that they see it for what it is—an excuse to raise taxes to support runaway federal spending

The 10 cents a gallon raised by the oil import tax cost consumers $10 billion a year, according to White House estimates. The average automobile-owning family will pay $92 more a year for gasoline.

That $92 will come on top of the additional $362 per year each pays because of recent increases in the price of gasoline. Meanwhile federal government spending has increased at a rate of $5 billion per month in the last four years.

Mr. Chairman, increasing taxes to support higher federal spending is not what the American people want. In my last survey of opinion in my district, 82 percent of my constitutents who answered called for a balanced federal budget. And 98 percent favored balancing the budget by spending cuts rather than tax hikes.

Yet they read that the extra $10 billion Americans will spend on gasoline each year because of President's Carter's oil import fee may result in savings of 100,000 barrels of oil a day. I think that figure is unduly optimistic and I think the President knows it.

In fact, recent history shows that increasing gasoline prices does not reduce oil imports. In 1975 the United States was importing over six million barrels of oil per day and gasoline was selling for 59¢ per gallon. At the beginning of this year we were importing over eight million barrels of oil each day despite the fact that gasoline was selling at $1.05 per gallon—almost twice the price. Why the President thinks that another dime added to the price of gas is going to stem the tide of foreign oil when fifty cents was unable to accomplish that feat is beyond logic.

President's Carter's gas tax is not going to reduce significantly oil imports. It is simply another way to squeeze more money out of American taxpayers.

Both reason and overwhelming public opinion dictate that Congress should roll back the oil import tax as soon as possible.

Mr. FRENZEL. The subcommittee will now adjourn until the hour of 2 p.m.

[Whereupon, at 1:35 p.m. the subcommittee recessed, to reconvene at 2 p.m.]

AFTERNOON SESSION

Mr. VANIK. The subcommittee will be in order.

The testimony we now have will be the testimony of the statement of Arnold Cantor, assistant director of economic research, American Federation of Labor and Congress of Industrial Organizations.

Mr. Cantor, we are pleased to have you testify. Your entire statement will be admitted into the record as submitted. You may read from it or excerpt from it in any way you see fit.

STATEMENT OF ARNOLD CANTOR, ASSISTANT DIRECTOR OF ECONOMIC RESEARCH, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, ACCOMPANIED BY STEPHEN KOPLAN, LEGISLATIVE REPRESENTATIVE

Mr. CANTOR. Thank you, Mr. Chairman. I am accompanied by Stephen Koplan who is legislative representative for the AFL-CIO.

Mr. VANIK. I want to say at the outset you know I am leaving Congress this year and one of the reasons I am leaving is it is awfully difficult to do business here. It is hard to get a quorum. It is hard to get a quorum for markup. It is hard to get a day for markup legislation. It is difficult to get my colleagues off the stump and into the committee room. It is one of the problems of the campaign years. I don't know how we can afford to spend this year in this tremendous campaign.

It is taking up all the energy of people in Congress and in the country. We lose this opportunity to solve problems. I hope your organization will take some effort to shorten the campaign period. We ought to change all of the laws and have the Presidential campaign take about 4 months, complete it within that time. This campaign began last August and it still has not wound down and it has its cost on the volume of legislation that we are dealing with.

I want to confess that I am chagrined that the Congress is doing so little about the important areas of legislation which are our obligations.

I just wanted to get that to you, so maybe I could get your influential organization to take a real strong position on changing the law so the campaign period and all of its factors should be cleaned up within 4 months, instead of the 14 months we are involved in in the current process. We are happy to have your statement. You may proceed.

Mr. CANTOR. We would like to say that we are disturbed that this is your last term.

Mr. VANIK. Still, change the rules and I might do something about coming back here.

Mr. CANTOR. On behalf of AFL-CIO I would like to commend the chairman and the members of this committee for conducting this inquiry into the import fee imposed by the President on March 15, 1980.

We hope that this hearing will lead to the speedy termination of the import fee and also serve to convince the administration that the Congress and the Amercian people do not want additional measures that will add to inflation generally, to consumers' energy costs specifically and also push the economy further into recession and joblessness.

As we understand the measure, importers of crude oil are required to pay a $4.62 barrel fee, which would be reimbursed to them by gasoline producers through the purchase of entitlements. The refiners will, in turn, pass on the "fee," and the net result will be that consumers will pay 10 cents more per gallon of gasoline, whether produced domestically or imported.

Moreover, according to the administration, the measure is to be a temporary one until such time as the administration submits and Congress acts upon legislation which would simply and directly increase the Federal excise tax on motor fuel. The initial increase would be 10 cents per gallon. However, over time, since the administration would index the excise fee to the price of gasoline, the tax would increase. This would add to the inflationary impact of every price hike determined by OPEC or the oil companies.

Mr. VANIK. If the Government were to get the revenues and use them to lower other taxes such as social security—let us assume the 10 cents were put into social security tax reduction, would that then continue to be inflationary or would it balance out?

Mr. CANTOR. In all due respect I really think we have happier and better alternatives than to start working in a ballpark of arguing which regressive or unfair tax is less regressive or less unfair. I really think dealing with an excise tax that is just what you are saying. Certainly anyone can argue that certain taxes no matter how bad or regressive could perhaps be compensated for the spending side or through other reductions but we have been before this committee many, many times and we have worked very closely with you many, many times, Mr. Chairman, on appropriate tax reforms. I really don't feel we should be going the excise route.

We also feel the notion of encouraging conservation through further price hikes is wrong and inequitable and that the administration's unilateral imposition of the conservation fee was motivated more by a desire to balance the budget than an attempt to promote energy conservation or deter imports.

Mr. VANIK. What are you for, you are for rationing, aren't you?

Mr. CANTOR. Very much so.

Mr. VANIK. I tried that. All I did was announce I urged the Department of Energy to conduct a survey in my informed constituency, one of the best informed constituencies in America. I said get a reading and see how my people feel about rationing. My newspapers printed it as though I was advocating a trial in my district out of all of the 435 in the United States. I want to tell you that I don't want rationing either. I couldn't go home for about 3 weeks. What they want is gasoline at 1969 prices.

Mr. CANTOR. I am not familiar with your survey but I wonder if the survey was couched in terms of decontrol as an alternative which would raise the price of gasoline specifically. Also since you mentioned solutions a proposal—if I recall correctly—that you have been very strong on and we supported all the way is to take the importation of oil out of the hands of the individual companies and should use our clout as consumer——

Mr. VANIK. I am sorry we didn't address that question to the Secretary of Energy this morning when he was testifying. I overlooked that one but I think it certainly is long overdue and I think we have to press our efforts to move in that direction. I am sorry to have interfered with your testimony. You may proceed.

Mr. CANTOR. We think it important to keep in mind that the import fee that was unveiled on March 14 was part of the administration's latest program to deal with inflation. The AFL-CIO is already on record in its opposition to the expenditure cuts proposed by the administration because those cuts place the burden of the battle against inflation on those least able to cope with the problems of our society.

In that same light, we object to the gasoline fee/motor fuel tax. The measure is as inequitable and ill-advised on the revenue side of the ledger as the program cuts are on the expenditure side. We are opposed to attempts to fight inflation by reducing expenditures on programs that are essential to the welfare of low- and moderate-income Americans. We see no justification for measures that add to the burdens of those same Americans by increases in unfair taxes and reductions in their purchasing power.

We therefore also endorse House Joint Resolution No. 531 introduced on April 15 by Representatives Shannon, William Cotter, and Henson Moore of that committee as well as others which provides for congressional disapproval of the President's decision to act administratively in this area and would terminate the fee.

Mr. Chairman, in March according to the Department of Labor, the average price of unleaded gasoline was $1.252 per gallon. Last March that same gallon of gasoline cost 75.5 cents—an increase of 49.7 cents per gallon or 65.8 percent. Total energy costs, according to the Consumer Price Index, over that same period rose 48.8 percent and the future doesn't look much brighter.

Based on the data and information developed during the congressional deliberations on the windfall profits tax, oil producers' revenues and consumers' energy costs will rise by over a trillion dollars in the 1980 decade as a result of OPEC's actions and the President's decontrol decision.

Under these circumstances, it makes no sense for the Federal Government to add even more to consumers' energy costs.

We would also like to call attention to a largely ignored but extremely important, inequitable shift toward consumer taxes that is taking place in the Federal structure as a result of energy tax legislation. The just-enacted windfall profits tax is in actuality an excise tax on a part of the oil producers' windfall profit increases resulting from decontrol. The windfall tax is expected to raise some $227 billion in Federal revenue over the next decade.

One result, according to the most recent budget estimates of the administration, is that total Federal excise tax receipts by 1983 will be $54.8 billion—an amount that is triple the 1979 levels. Adding on the motor fuel tax will bring excise tax revenues to $72.2 billion in 1983. Looked at in the light of the totality of revenues, Federal consumer excises in 1979 accounted for only 4 percent of total budget receipts; and for each dollar in excises, the Federal Government collected $15 in corporate and individual income taxes. By 1983, if the motor fuel tax becomes law, the percent of total budget receipts coming from excises will rise to 9 percent, and the Federal Government will be collecting $7 in income taxes for each dollar of consumer excises.

In summary, Mr. Chairman, if the Congress and the administration wish to increase Federal revenues and reduce the deficit through tax measures, there are billions upon billions of dollars that can be raised through closing loopholes and promoting tax justice.

Mr. VANIK. On that point, I appreciate the position of the AFL-CIO. It has always been very praiseworthy on this issue but when we start counting heads in the Congress to get this done I sort of can't get over the 10 Members who are willing to take strong positions to close the loopholes.

Now is there any realistic hope that we can proceed in that way? I don't want to undermine the cause, but it has been very discouraging. I spent the greater part of my 26 years in this Congress trying to do that very thing and our success record is very poor.

My feeling is that in the new Congress, with perhaps 50 Members changing seats, the prospects for this kind of change are very small. I think the tax loopholes surgery that we had several years ago has been eroded, and I just don't see realistically the political muscle in the Congress to support a really meaningful tax reform program.

Am I wrong about that or do you see any better prospects?

Mr. CANTOR. I will let our legislative representative respond.

Mr. KOPLAN. Mr. Chairman, I think as the results of the ill-advised decision to decontrol the price of oil and as Mr. Cantor has stated, these regressive measure effects are felt, the cry of the American public will become increasingly louder as the year goes on.

I would certainly hope that in the next Congress our efforts and the efforts that you have exerted over all these years for meaningful tax reform will continue. I remember the fight earlier this year when you tried to do something with the foreign tax credit and deferral. I would hope that we would be able to pick up the cudgel in the next Congress and carry that fight forward.

We can't afford to abandon that kind of fight. We would simply be giving up.

Mr. **Vanik**. There is also a serious prospect that the 10-5-3 proposition might move in the Congress. It has also a majority of the Congress as sponsors. I don't recall your position on that.

Mr. **Cantor**. We are very, very much opposed to 10-5-3. We did testify before this committee and generally we have been opposed to any kind of playing around in depreciation. Quite frankly as we did say in our testimony, what disturbs me in the direction that the tax structure is going, is that if we keep moving toward this direction of consumption taxes, in effect, we have the results of 10-5-3.

We are tilting our economy away from income taxes—from taxes based on ability to pay—toward consumption taxes and that is the bottom line of 10-5-3.

Mr. **Vanik**. Realistically, I am afraid they are going to bowl us over. I favor, as an alternative or as a possible consideration, two things. One is we are running out of technology and I have a bill in to provide for revitalization of technology with a small price tag.

It would provide credit, 50 percent credit, 50 percent tax reduction for corporate or private adventures into technical changes, redevelopment of technology in the university setting.

Now, that would cost $0.1 billion and I think it would stimulate our economy more than anything I can think of, because we are running out of new product lines. The people from abroad tell me we are running out of American technology which, in the past, was stimulated by the three wars and by the space program. So, it seems to me we should have a peacetime stimulus.

I would like you to look that over. Also, I feel we have to have an alternative to 10-5-3. If we have no alternative, we will get rolled over. What I would suggest is a possible alternative to 10-5-3, which over a period of 5 years, would cost $122 billion. I would suggest that we develop the targeted kinds of depreciation or capital formation program so that we target the resources to those sectors of our economy that need redevelopment.

If we do 10-5-3 across the board, it will permit capital to be invested abroad, it would be used to buy futures in sugar or silver or whatnot. It would have no real stimulative effect as far as jobs and the economy are concerned.

Now, if we were to target it to, say for example, to steel, electronics, including semiconductors, and the chemical industry and automobiles, I think that in these areas, a targeted program could probably end up costing maybe one-tenth as much as 10-5-3 and provide a much more feasible benefit ratio.

But, what I want to suggest is that if we don't have an alternative, they are going to bowl us over with 10-5-3. I think the momentum is there. I think that at the first opportunity for that to develop, it will move. I am afraid that unless we have a viable alternative that is better tuned and less costly, that we may lose in that effort.

Mr. Cantor. I would like to respond. First of all, I truly believe at the moment where we are now in terms of budget, in terms of the economy, in terms of the battles that are going on now, that an alternative—in other words fighting one corporate tax cut with another—is not appropriate.

I don't feel a tax cut at this stage is appropriate for corporations or for individuals quite frankly. Over time, to the extent that there is a proven and demonstrated need in certain industries for certain kinds of program that would promote productivity, capital formation and so on, I suspect that if the program were devised in such a fashion where there is not leakage abroad, where there is not leakage toward those who are doing what they would do anyway—we could as we have in the past, Mr. Chairman, support some kind of selective measures if they can be targeted.

Our major concern, as is yours, is that when you take measures like 10-5-3, they vary across the board and they do as much havoc within the industrial and business sector in terms of distortion as they do with the economy in general. They are terribly, terribly wasteful.

Mr. Vanik. Thank you very much. With that interruption, you can go on and finish your paper.

Mr. Cantor. I would like to wind up by noting that if energy conservation is the goal, then there are more direct and equitable ways than rationing by price. I have attached to our testimony the AFL-CIO convention recommendations. We would like them included for the record.

Mr. Vanik. Without objection, it is so ordered.

Mr. Cantor. These are the resolutions which spell out AFL-CIO's position on tax structure and on energy.

Mr. Vanik. We will put in your tables that are very good on this rising price of gasoline.

Mr. Cantor. You will find very high on our energy recommendations is for the Government to be an importer of last resort and our support for rationing.

Mr. Vanik. Thank you very much. Is there anything further you want to add?

Mr. Koplan. No, Mr. Chairman.

Mr. Vanik. Thank you. I certainly appreciate your testimony. We appreciate the time you have taken to appear before the committee.

[Attachments to the statement follows:]

TABLE 1.—GASOLINE: AVERAGE PRICE PER GALLON

	Regular (unleaded) (1)	Regular (leaded) (2)
March 1980	$1.252	$1.202
February 1980	1.207	1.159
January 1980	1.131	1.086
December 1979	1.065	1.018
November	1.041	.994
October	1.028	.982
September	1.020	.973
August	.988	.943
July	.949	.908
June	.901	.856
May	.844	.797
April	.802	.756
March	.755	.706
February	.730	.681
January 1979	.716	.668
December 1978	.705	.659
November	.695	.650
October	.690	.645
September	.688	.644
August	.682	.638
July	.674	.629
June 1978	.663	.620
June 1977	.665	.63
June 1976	.616	.592
June 1975		.57
June 1974		.55
October 1973		.40

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 2.—ENERGY COSTS AND CONSUMER PRICES

[Figures in percent]

	Gasoline	Total energy	CPI-W, all items
1980: March–March	68.5	48.8	14.6
1979: December–December	52.8	38.7	13.4
1978: December–December	8.6	8.1	9.0

Source: U.S. Department of Labor, Bureau of Labor Statistics.

POLICY RESOLUTION

Adopted November 1979
By the AFL-CIO 13th Constitiional Convention

Federal Income Tax

The major federal individual income tax reforms we recommend are:

- Termination of the capital gains loophole. The special tax preference benefiting primarily wealthy investors and speculators was widened in 1978 and, as a result, 60 percent of the profits from the sale of stocks, bonds, real estate, or other assets are tax exempt. This provision costs the Treasury over $10 billion in foregone annual revenue, with nearly two-thirds of this revenue loss going to the wealthiest one percent of the nation's taxpayers.

In addition, we oppose any efforts to repeal, weaken or postpone the 1976 "carryover basis" reform provisions which place a modest tax on some $20 billion a year in capital gains that are passed on at death and are totally exempt from the income tax.

- Measures to curb use of tax-exempt state and local bonds. We support measures which would provide a federal interest subsidy to states and localities issuing taxable bonds. The subsidy must be sufficient to assure that the fiscal powers of the state and local governments are not hampered. This would broaden the market for municipal bonds, be of particular help to financially-pressed state and local governments, as well as curb a tax preference which benefits primarily banks and the very wealthy.

- Elimination of the "maximum tax provision," which primarily benefits individuals with high incomes from fees and salaries, at an annual loss to the Treasury of $1.6 billion.

- An end to the opportunities for wealthy speculators to avoid taxes through so-called "tax shelters" which create artificial losses, deductions and opportunities for the wealthy to convert fully taxable income to preferentially taxed capital gains.

The corporate contribution to the cost of government has been sharply eroded as a result of unnecessary rate cuts and misguided efforts to encourage or subsidize particular activities.

Corporate income tax receipts presently account for only 23 percent of total federal income tax revenue and 14 percent of total budget receipts. A decade ago, the corporate income tax accounted for over 30 percent of income tax revenues and almost one-fourth of total receipts.

The corporate income tax must be thoroughly overhauled and reinstated as a major source of government revenue. Excessive use of corporate tax forgiveness has resulted in billions of dollars of federal funds wasted in providing benefits to firms for doing what they would do anyway; greater concentrations of corporate power by providing larger and wealthier firms the greatest share of the benefits, adversely affecting smaller businesses.

Major provisions which must be ended or drastically overhauled include:

1—The 10 percent investment tax credit, which is the most costly business tax preference—amounting to $18 billion a year in lost revenue and reducing corporate income taxes by 20 percent. Throughout its costly 17-year history, this credit has been advocated as a device to fight recessions, stimulate business investment, enhance productivity and create jobs. Yet no evidence has ever been presented to demonstrate that it has contributed to any of these goals.

2—The across-the-board depreciation speed-up schedule enacted in 1971. By allowing corporations to write off depreciation deductions at an accelerated rate, the Treasury loses $3 billion in annual revenue and larger, most-capital-intensive corporations are the major beneficiaries.

New depreciation gimmicks such as the proposed Capital Cost Recovery Act must be rejected. That measure would cut corporate taxes in half, reduce federal revenues by $50 billion annually, and destroy the concept of business income for tax purposes.

3—Limit the lower tax rate that applies to the first $100,000 of corporate income solely to small corporations. As a result of 1978 law, the first $100,000 of income of all corporations is subject to a maximum effective rate of 26.8 percent. This provision costs some $3 billion in lost revenue and, although justified as a measure to help small business, the major beneficiaries are the larger corporations.

4—Targeted Jobs Credit. This provision, enacted in 1978, provides employers with a two-year tax subsidy of as much as $4,500 for each employee who meets certain "disadvantaged" eligibility requirements. We remain convinced that wage subsidies to private employers are a bad idea, whether done directly through public grants or through the back door of tax relief. While we have long been concerned about the special needs of young people for employment as well as training and educational opportunities, we strongly object to "no-strings" subsidies, which amount to federal expenditures but contain few enforceable federal safeguards or standards of performance, and much potential for abuse, exploitation and undercutting of wage standards.

In addition, a major effort must be made to end the tax preferences of U.S.-based multinational corporations that have destroyed American jobs, spurred the outflow of U.S. capital, technology and know-how, at the expense of U.S. jobs. tax revenue and economic well-being. This requires:

- An end to the foreign tax credit provision which allows U.S. corporations to credit foreign income taxes on a dollar-for-dollar basis against their U.S. tax liability. Income taxes paid by U.S. corporations to foreign governments and royalties paid by oil companies should be treated as costs of doing business, just like taxes paid to state and local governments. Eliminating the credit and allowing a deduction would generate some $8 billion in annual revenue.

- An end to the deferral privilege which allows multinational corporations to defer U.S. income tax payments on the earnings of their foreign subsidiaries until such profits are brought home, which may be never, at a cost of $500 million in tax revenue.

- Elimination of the $1.3 billion a year Domestic International Sales Corporation (DISC) gimmick which allows corporations to spin off into export subsidiaries in order to defer, perhaps indefinitely, taxes on substantial portions of export profits.

The AFL-CIO also supports enactment of an excess profits tax to encourage business compliance with voluntary price and profit margin standards. So long as profits are unchecked while wages and salaries are restrained, there can be no equity in the administration's anti-inflation program. The only effective way to achieve profit restraint is through taxation.

We also believe the trend toward use of preferential tax forgiveness as the principal means to solve problems and meet goals must be halted, and tax devices and gimmicks that run counter to the goals of tax justice must be rejected.

These include proposals such as the value-added tax, which is simply an unfair and inequitable national sales tax masquerading under a new name; the addition of new so-called business tax-incentive schemes; tax relief subsidies for individuals who prefer to send their children to non-public schools; devices to encourage stock market speculation; or, unfair and inequitable attempts to use the tax structure as a device to ration scarce resources by price rather than take necessary direct government actions to conserve and allocate those resources.

Energy

The energy problem will not disappear by itself. It will remain one of the major problems facing this country in the years ahead. Whether that issue is resolved—and how it is resolved—will have a determinate effect on the well-being of this nation.

There is no single, simple solution. Ways must be found for conserving energy, developing new supplies, dealing with OPEC, and regulating the domestic energy industry in the national interest.

Because of the OPEC stranglehold through price and supply decisions, the U.S. is presently at the mercy of the oil cartel, with no effective mechanism for dealing with OPEC. The giant oil companies, whose profits balloon with every OPEC price hike, have neither the incentive nor the desire to protect the American people. Only government can and must do that.

Therefore, the AFL-CIO continues to urge the creation of a government agency to:

(1) Determine the amount of oil to be imported;
(2) Negotiate its price; and
(3) Allocate it throughout the nation to best meet the needs of all segments of society.

But much more must be done to solve the energy crisis, both over the short and long term:

Conservation

Energy conservation is an indispensable ingredient in the resolution of the energy problem. Some measures require new legislation, others can be put into effect by administrative action:

1—A two-tier system for rationing gasoline should be instituted under which people could purchase their basic allotment at prevailing pump prices. Purchases above the basic allotment should be permitted but those purchases would be taxed heavily. The funds created by this tax should be earmarked for the reduction and ultimate elimination of commuter transit fares and for the development and construction of mass transit systems.

2—The establishment of temperature and lighting standards that could be reasonably enforced in industrial, commerical and residential buildings would lead to economies in heating, lighting and cooling.

3—Gas and electric rate structures should be revamped to eliminate declining block rates and allow for peak-load pricing.

4—Mandatory energy efficiency standards for major appliances should be established.

5—All new and existing buildings should be required to conform with efficient energy standards.

6—Automobile fleet mileage standards should be maintained and strengthened.

7—Mass transit systems should be improved and expanded and fares subsidized.

8—The cogeneration of energy, largely through the use of steam produced in the generation of other forms of energy, should be encouraged, and the conversion of oil-fired boilers should be required.

We believe that government loans, loan guarantees and grants should be available to private citizens, as well as businesses, for installation of new conservation of equipment.

These are the kinds of conservation measures that are essential to reduce the nation's consumption of energy. As we view conservation, it does not mean a lower quality of life or a slackening of economic growth. Growth in the economy and a high standard of living are endangered if there is not sufficient energy at reasonable prices to turn the wheels of industry. Conservation can help prevent a shortage of energy.

Alternate energy sources

As fundamental as conservation is to an energy program designed to reduce the nation's dependence on foreign sources, it cannot do the job by itself.

Alternate energy sources must be developed from each of the three primary categories: (1) essential renewable sources—solar, wind, gasohol, tidal and geothermal energy—for which varying degrees of technology exist and which appear to have minimal environmental effects; (2) nonrenewable sources—coal and nuclear—for which technology exists but which also pose environmental problems; and (3) new areas—such as waste matter, oil shale, tar sands, and other synthetic fuels and solar power installations—which require expensive new technology and may have potential environmental problems.

We believe that all potential energy sources should be developed. Goals should be established for alternate forms of energy to replace specific amounts of oil and natural gas. At the same time, however, no energy source should be developed without companion research into methods of reducing adverse environmental effects.

We urge that a very substantial commitment be made towards advancing solar, gasohol and geothermal technology. Greater development of solar energy and gasohol, for example, would enable many Americans to substitute these sources for oil or natural gas. Solar energy, in particular, has a tremendous potential for making a significant contribution to meeting this nation's energy needs.

The nation cannot afford to ignore coal and nuclear energy, despite environmental dangers. Both sources will play an important role in reducing U.S. dependence on imported oil. Greater use of scrubbers and technology to extract more energy from coal effluent, including cogeneration, would offset air pollution through greater production of energy.

The nation must never relax stringent health and safety regulations governing nuclear power, and immediate, careful attention must be devoted to solving the problem of nuclear waste disposal. We believe that development of nuclear power must be accompanied by expanded research into technology to further reduce safety hazards, so that nuclear power will enjoy the public support it must have to become a significant energy source. We advocate development of technology which turns nuclear waste into reusable fuel.

Energy Independence Authority

To finance the high cost of technology to develop synthetic fuels, the President has proposed a multi-billion-dollar Energy Security Fund, which we support. Since private capital has failed or refused to risk making loans to develop this technology, the federal government must provide loan guarantees, direct loans, price guarantees and be empowered to launch projects of its own, patterned after the TVA concept. The federal government must also bear the responsibility and expense for expanded research into any potential environmental hazards which may result from development of synthetic fuels.

Therefore, the Energy Security Fund should be expanded into an Energy Independence Authority, with the federal government also making loan guarantees and loans for research and development of new conservation technology and production of oil and gas from public lands. This authority should also have the power to cancel and take over leases of public lands to private corporations where a company has capped productive wells. America must make more efficient use of the energy it has, and the government should encourage research into improving energy productivity.

Oil Prices

We believe that the President's decision to decontrol the price of oil was wrong. It will not contribute one iota to resolving the energy crisis, shorten the gas lines or increase supplies. Control of energy prices is a legitimate responsibility of government to protect the American people from the sudden, adverse economic effects of huge energy price increases. Therefore, we support a reversal of the President's decontrol order.

With or without decontrol, there must be a windfall profits tax on the oil companies. Their gluttony has injured the American people, and inexcusable windfall profits should be put to good use through government programs to develop new sources of energy, provide added mass transit facilities and help lessen the impact of energy costs on those Americans whose incomes are insufficient to withstand heating oil and vehicle fuel prices.

Therefore, we support a windfall tax rate of 85 percent rather than the 60 percent rate set in H.R. 3919. In addition, we urge the Senate to defeat any effort to weaken the tax either by exemption, phase out, or by permitting a portion of the tax to be plowed back to the oil companies.

Other proposals

We support establishment of an Energy Mobilization Board to expedite construction of energy-producing facilities by eliminating red tape and unnecessary procedural delays. However, we believe this board's power must not be permitted to negate worker-safety, civil rights, labor standards, anti-trust, environmental or health laws.

We call for immediate construction of the Northern Tier Pipeline to carry Alaskan oil to refineries in the Midwest. Greater shipment of domestic and foreign oil in U.S.-flag tankers, which have a proven safety record, would minimize losses due to accidents.

The loophole in the Jones Act, which allows foreign-flag vessels to engage in commerce between the Virgin Islands and the U.S. mainland, should be closed. Oil accounts for 99 percent of the outbound shipments from the Islands to the U.S. As a result of the loophole, this oil is carried in foreign-flag ships. The loophole encourages dependency on foreign ships for transportation of vital energy resources.

Except where the U.S. has a treaty obligation, we flatly oppose any sale of Alaskan oil to foreign nations or any barter agreements to exchange Alaskan oil for oil from a third country. Such "swaps" only encourage U.S. oil companies to defer or cancel necessary U.S. refinery expansion and pipeline construction and provide no savings to U.S. consumers.

We call for continued and intensive government investigations of contrived energy shortages and price gouging and we urge a national energy information system which would require the energy companies to provide government with the facts needed for analysis and decisionmaking.

Divestiture

The giant oil companies, through their complete control of petroleum from wellhead to marketing, exercise an unhealthy influence over the nation's wellbeing. We urge the Congress to break up the oil monopolies so that they will no longer produce as well as refine and market petroleum.

We call for immediate legislation to prevent the giant oil companies from using federal funds to develop renewable sources of alternative energy. We continue to support legislation to prevent oil companies from diverting their resources to acquisitions of or mergers with companies in other industries.

The oil companies have abused their current monopoly powers and the nation cannot afford to be at the mercy of either the sheiks of OPEC or the barons of American oil companies. If the oil monopoly fails to adequately serve the public interest, consideration should be given to nationalization of the industry.

Mr. **Vanik**. The next witness is Robert Sullivan, executive vice president, National Oil Jobbers Council.

Mr. Sullivan, we have your prepared statement. You may read or excerpt from it and proceed in any way you desire.

STATEMENT OF ROBERT SULLIVAN, EXECUTIVE VICE PRESIDENT, NATIONAL OIL JOBBERS COUNCIL

Mr. **Sullivan**. Thank you, Mr. Chairman. My name is Robert W. Sullivan. I am executive vice president of the National Oil Jobbers Council. I am pleased to address this subcommittee on behalf of the thousands of independent small business petroleum marketers represented by NOJC on an issue of critical concern: President Carter's petroleum import adjustment program—PIAP—and the gasoline conservation fee—GCF.

Specifically, I urge prompt approval of House Joint Resolution No. 531 offered by the distinguished gentleman from Massachusetts, Mr. Shannon, and cosponsored by scores of other House Members, which would disapprove of the President's action in this area.

The National Oil Jobbers Council—NOJC—represents 15,000 independent small business petroleum marketers located across the United States. Of this total membership, approximately 12,500 jobberships handle the distribution and sale of motor gasoline.

My testimony, which is being submitted for the record, documents the severe impact this fee will have on the independent gasoline marketers that we represent. We estimate approximately 1,200 of these jobbers or almost 10 percent of our membership will go out of business this year. This gasoline fee will be the ultimate cause.

Rather than elaborate on these statistics, however, I would prefer to establish the interrelationship between this jobber and the customer he supplies.

Generally, we market over 30 percent of the gasoline products and over 80 percent of the home heating oil sold in this country. This last number is significant since we are firmly convinced that the gasoline market will not bear the total burden of this unwarranted tax.

Specifically, our gasoline members serve rural areas, agricultural contacts and small end users. The ripple effect of this fee on these customers—as other witnesses will subsequently testify to—will impact heavily on the price of food and goods and services for every consumer in this country. Even the Postal Service announced this week that every 10-cent-per-gallon increase in gasoline costs raises their costs $30 million per year.

In addition to increasing the price of all petroleum products, the fee will serve to stimulate product shortages in certain regions of this country. Prior to the imposition of this fee, over one-third of our members or approximately 4,350 of these small businessmen were at maximum credit limits with their suppliers. Another 4,350 of our members will reach that credit limit with the imposition of this fee.

To finance the higher cost of the product, only the top third of our members can resort to commercial lending institutions at interest rates usually well above prime. For many markets, this is not a feasible alternative. They will purchase less products, thus being subject to a most unusual allocation system, one where the product is available, but they are unable to afford it.

The gasoline fee is unwarranted. It is unresearched. It is unfair, it is unusual, and it is an insurmountable cash-flow burden on every American. It is unwarranted in that the public consumption of motor gasoline is down 9 percent so far this year from 1 year ago.

It is unresearched in that the Federal Government did not prepare nor ever propose to prepare an economic impact analysis of just what this $10.3 billion passthrough will do to the independent distribution system of our industry. It is unfair in that the independent segment of this industry must bear 33 percent or $3.5 billion in cash flow increases during the first 12 months of the petroleum import adjustment program.

It is unusual in that the legal implications of this program seem to stray so far from the Chief Executive's authority and that raises such a huge sum for the Federal Treasury without the consent of the Congress. Also, this program is unusual in that the fee, which is estimated to increase inflation by almost 1 percent, is attached to the President's anti-inflation program.

In summary, the National Oil Jobbers Council appears before this committee today to voice our absolute total and fervent opposition to President Carter's program. There are no pluses in this program for us small business members, for our Nation's rural communities which we serve, for the American farmer to whom we supply 90 percent of all his fuel requirements, nor to the American consumer whom we all strive to serve.

This position was fully stated yesterday in a national press conference which a number of energy organizations, labor unions, independent gasoline market organizations, all joined together in opposition to this fee. You will hear from most of these organizations later.

We urge this subcommittee to act appropriately and swiftly in approving House Joint Resolution No. 531 to spare petroleum marketers and their customers, the Nation's farmers, small businessmen, State, and local governments, and the American consumer, from this highly inflationary and unwarranted program.

Thank you.

[The prepared statement follows:]

STATEMENT OF THE NATIONAL OIL JOBBERS COUNCIL[1]

My name is Robert W. Sullivan; I am Executive Vice President of the National Oil Jobbers Council (NOJC). I am pleased to address this subcommittee on behalf of the thousands of independent small business petroleum marketers represented by the NOJC on an issue of critical concern: President Carter's Petroleum Import Adjustment Program (PIAP) and the Gasoline Conservation Fee (GCF). Specifically, I urge prompt approval of House Joint Resolution No. 531 offered by the distinguished gentleman from Massachusetts, Mr. Shannon, and cosponsored by scores of other House members, which would disapprove of the President's action in this area.

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[1] The National Oil Jobbers Council is a federation of 44 state and regional trade associations representing thousands of independent small business petroleum marketers. Members include gasoline and diesel fuel wholesalers, commissioned distributors of gasoline, gasoline reseller-retailers and a large number of retail fuel oil dealers. Members also wholesale or retail many other petroleum products, including kerosene, LP gas, aviation fuels and motor oils as well as residual fuel oil. Together our members market approximately 25 percent of the gasoline and 75 percent of the home heating oils sold in America under either their own private brand or the trademark of their supplier.

The National Oil Jobbers Council (NOJC) represents 15,000 independent small business petroleum marketers located across the United States. Of this total membership approximately 12,500 jobberships handle the distribution and sale of motor gasoline.

Since the imposition of federal pricing and allocation regulations which arrived concurrently with the public's awareness of our nation's energy crisis, the independent small business jobber has dealt with another severe crisis--that of making ends meet financially. Since 1974, 6,000 jobberships have gone out of business at the rate of 1,000 per year. Although the past history of federal involvement in our segment of the gasoline marketing industry has been bleak, the future looks far bleaker. Based upon our most recent projections, we regretfully anticipate that another 1,200 jobberships will fail during calendar year 1980. This would bring our total casualty count to 7,200 jobberships, or more than one-half our present membership.

There are several reasons for this dismal record of protection for independent small businesses in the petroleum marketing industry. Despite the admonishments of the Congress contained in Section 4b of the Emergency Petroleum Allocations Act, Department of Energy pricing and allocation regulation combined with the nation's economic problems have taken a heavy toll on the independent small marketers.

For example, since 1974 the NOJC has strived to change federal regulation to allow for a fair pricing margin for reseller retailers. The last change in the permanent jobber gasoline margins was exactly six years and 6,000 jobbers ago. Our gasoline members have been held to artificially low ceiling prices since 1974 while the cost of doing business has been skyrocketing along with double digit inflation. It is no small wonder to us that we still represent the 15,000 jobbers that remain.

The Carter Administration now imposes an unwarranted, unresearched, unfair, unusual and insurmountable cash flow burden upon us in the form of a 10 cents per gallon Gasoline Conservation Fee—a fee which amounts to an overnight 8 percent increase in our product cost at a time in our existence when we can least afford it.

I say "unwarranted" in that public consumption of motor gasoline is down 9 percent in January of this year from what it was just one year ago.

I say "unresearched" in that the federal government did not prepare, nor ever propose to prepare, an economic impact analysis of just what this $10.3 billion dollar passthrough will do to the independent small business segment of this industry.

I say "unfair" in that the independent segment of this industry must bear 33 percent or $3.5 billion dollars in cash flow increases during the first 12 months of this Petroleum Import Adjustment Program. It is particularly unconscionable since every conceiveable step was taken to preserve the cash flow of the importers and the refiners in mechanisms of the program.

I say "unusual" in that the legal implications of this program seem to stray far from the chief executive's authority in that it raises such a huge sum for the federal treasury without the taxing consent of the Congress. Also this program is unusual in that the GCF, which is estimated by the Federal Government to increase inflation by at least one percent, is attached to the President's anti-inflation package.

Lastly I say "insurmountable" in that the GCF portion of the President's program presents an impossible cash flow burden to the majority of small business gasoline jobbers.

At present—prior to the imposition of this GCF—one third of our 12,500 gasoline jobbers, or 4,350 companies are at maximum credit limits with both their supplying companies and banking institutions. Another third of our membership or 4,000 plus jobbers are at a maximum credit ceiling with either their major supplying company or their traditionally dealt-with banking institutions. Another third of our membership (our larger members) have some remaining credit flexibility, however, most would have to borrow additional monies to cover the GCF at points over the current prime rate.

With this cash flow crisis in mind the NOJC undertook in recent weeks a jobber survey on cash flow. When all returns are tabulated, we expect to have heard from a random sample of 20 percent of our national membership from 48 states. The first wave of these cash flow surveys are now in hand and the preliminary findings are strong evidence of the mass slaughter that will take place in the gasoline marketplace if the GCF, as presently proposed, goes into effect on May 15, 1980.

Our survey sample results read as follows:

56 percent (or approximately 7,000) of our 12,500 gasoline jobbers had a negative cash flow in 1979.

Only 30 percent (or 3,750) had a positive cash flow in 1979.

14 percent had no change in cash flow from 1978 to 1979.

79 percent of our total membership (9,875) expect their gasoline jobbership to go out of business within the next five years.

More specifically, six percent (750) of our membership are as of this date liquidating their assets—this fits with our year long estimate of 1,200 jobbership financial failures this calendar year.

This bleak picture of the past and present brings us to our total and absolute opposition to the imminent imposition of the GCF and its insurmountable cash flow problems.

The average jobber in the United States handles 4.25 million gallons of gasoline per year. This average jobber had a negative cash flow of minus $10,000 for all of 1979.

Under the proposed GCF, the typical jobber, confined to 1974 margins and maximum credit ceilings, would have to pay an average of $35,400 more per month or $424,800 more per year—just to pick up his allocated product.

This impossible cash flow imposition on the independent small business gasoline marketer will mean the death-knell for our segment of the petroleum marketing industry. One need not be a mathematician to fully realize the diastrous impact of a full 10 cent per gallon passthrough which roughly equates to an eight percent product cost increase literally overnight. This is especially unbearable when one realizes that three of every four jobbers had either a negative cash flow for 1979, or a modest positive cash flow of less than $35,000 for the entire 1979 year.

This week the U.S. Postal Service announced the proposed 28 percent increase in mail rates for 1981. This decision was based on their estimate that for every 10 cents the price of gasoline rises it increases postal costs by $30 million. This is just another example of the tremendous negative "ripple effect" of this ill-advised program.

In summary, the NOJC appears before this committee today to voice our total and absolute opposition to President Carter's PIAP and its GCF. There are no pluses in this program for our small business members, for the nation's rural communities which we serve, for the American farmer to whom we supply 90 percent of his farm fuels, for the American consumer whom we all strive to serve.

The Carter Administration has not done its homework on the GCF. If it had, by conducting a thorough economic impact analysis, I am certain that it would not have created this financial creature of doom which will cause the mass slaughter in the marketplace we so vividly foresee.

I urge this committee to act appropriately and swiftly in approving House Joint Resolution No. 531 to spare petroleum marketers and their customers—the nation's farmers, small business, state and local governments and the American consumer from this inflationary program.

Mr. VANIK. Thank you very much for your statement. We very much appreciate it.

The next witness will be a joint presentation by Tom Daschle of South Dakota and the National Farmers Union. I have the Congressman's statement, so you might just proceed.

Your entire statement will be admitted as submitted.

Mr. JOHNSON. If the Congressman should decide to come and present——

Mr. VANIK. We will put his statement in the record.

Without objection.

Mr. JOHNSON. We will certainly defer to him.

Mr. VANIK. Your entire statement will be admitted as submitted.

STATEMENT OF REUBEN L. JOHNSON, DIRECTOR, LEGISLATIVE SERVICES, NATIONAL FARMERS UNION

Mr. JOHNSON. Mr. Chairman, I am Reuben L. Johnson, director of legislative services for the National Farmers Union, an organization of more than 300,000 farm families across the Nation.

At our 78th annual convention of the National Farmers Union last month, in Denver, our delegates approved a comprehensive statement on energy policy, which is summarized in attachment B.

In regard to the matter before this subcommittee today, the delegates said:

> Farmers have little opportunity to respond to increased costs of gasoline, diesel fuel, or other crude oil products by any meaningful reduction in consumption of such products.
>
> We, therefore, reject the imposition of taxes or other measures with the objective of curtailing the use of such energy on the nation's farms.
>
> If voluntary conservation proves inadequate, we favor rationing of fuels, with allocation on a priority basis, with agriculture and food given top priority.

What we are plainly saying is that we prefer allocation by rationing to allocation by price.

We, therefore, oppose with equal vigor both the petroleum import adjustment program, with its 10 cents a gallon price increase on gasoline, and the alternative of a specific legislated 10 cents a gallon conservation excise tax. See attachment F.

As we point out in attachment A, the legal authorities cited in proclamation 4744 appear to be misused. We do not believe the statutes cited were intended for such use.

But even if they were relevant, the intent of the statutes was to minimize the adverse effects of the energy or other situation upon American consumers and industries. Used in the way ordered in proclamation 4744, the adverse effect upon American consumers, farmers, and other industries is maximized rather than reduced.

In 1979, preliminary figures indicate that farm production consumption of gasoline, diesel fuel, and LP gas totaled about 7.6 billion gallons, the same as a year earlier and slightly below the 1973 total of 7.7 billion gallons. This achievement is particularly impressive, since some 40 million acres formerly in the set-aside came back into production.

From 1960 to 1970 farm energy use grew by 3.3 percent a year; now it is changing little from year to year, or dropping.

Farm fuel use in the past 8 years appears in attachment C. It shows that farmers have moved sharply from gasoline power to diesel power.

We believe that farmers have exhausted most of the economies which can readily be achieved. They have moved toward more use of minimum tillage and no-tillage cropping operations; they are more selective and scientific in their use of fertilizer; they are more efficient in irrigation practices; they are minimizing the use of energy in crop-drying and achieving other efficiencies in equipment maintenance and use and transportation.

Mr. VANIK. On that point, isn't the farmer able to pass these costs on in the price of the things he sells?

Mr. JOHNSON. Sorry, sir.

Mr. VANIK. Unlike the automobile, unlike the worker who goes to a factory every day and takes money out of his income after taxes to buy gasoline, the farmer can deduct his energy costs from his sales as a cost of doing business, so doesn't the farmer have an advantage over the city person who has to pay for gasoline with after-tax money?

Mr. JOHNSON. I don't believe, Mr. Chairman, that you will find that farmers have any capability at all other than whatever tax deduction they may have on the added cost. They certainly can't charge the cost of fuel. There is nobody back of them to whom they can pass the additional cost.

I don't see much difference between the factory worker and the farmer in that regard.

Having practiced all of the conservation measures that they know how to do, in the face of higher energy costs, farmers have only two alternatives: First, they can reduce production—which the Government does not want us to do, since it continues to reject a set-aside or acreage diversion program for 1980; and second, they can quit farming.

Since 1973 our apprehensions as farmers had dealt with actual or threatened shortages and interruption of natural gas or electrical power service. We have lived through an oil embargo, a costly coal strike, occasional shortages of natural gas, propane, and diesel fuel, and through three successive harsh winters—all the time with an uneasy feeling about the Federal commitment regarding fuel allocation policies.

But now we have become more concerned with the extraordinary increases in energy prices.

As we show in attachment D, gasoline and LP gas prices paid by farmers have gone up by 3.6 times since 1972, while diesel fuel prices have increased fivefold. In attachment E we show how the average fuel cost per acre has risen since 1975.

Outlays of farmers for direct energy and for energy costs in fertilizer and pesticides now total more than $6 billion a year, 8 percent of total production outlays.

We are concerned not only with what these rising energy prices do to our farm balance sheets but also we are aware as well that rising energy costs in the food system are badly eroding the buying power of American families for products of the farm.

It is estimated that in 1977 energy costs in the U.S. food system represented about 12 percent of the $200 billion spent by consumers for food, about $24 billion. Subtracting $2 billion for energy costs in exported foods and grains, and adding $11.5 billion spent by American households for home preparation and consumption of food, one gets a total of $33.5 billion as the energy element in current food costs.

It is further projected that each 10-percent increase in energy prices will add about 1.3 percent to food prices. A doubling of energy costs—what has roughly happened since 1977—would add 13 percent to food costs for consumers.

For these compelling reasons, therefore, National Farmers Union finds the petroleum import adjustment program a completely unacceptable approach. A special gasoline excise tax designed to reduce consumption would likewise be unacceptable and damaging.

The preferable approach for the Congress would be to adopt a resolution barring the implementation or maintenance of the petroleum import adjustment program.

Should such a prohibition not be possible to achieve, the Congress should take rapid action to enact legislation exempting certain important productive activities from the conservation fee.

H.R. 7043, by Representative Tom Daschle of South Dakota takes a desirable approach in providing for a credit against income taxes for all the industries who now are able to obtain a refund on gasoline taxes paid on fuel used in certain designated activities.

H.R. 7043 would make the tax credit available to farmers on gasoline used in farming operations, the construction industry, State, and local governments, airlines and bus companies, and nonprofit educational institutions.

Since farmers use 3.5 billion gallons of gasoline a year, the crude oil import fee, or the excise tax, would cost farmers $350 million a year. Under the Daschle bill, income tax credits could be sought annually or quarterly on the gallonage used in farming operations, estimated to be well over half the 3.5 billion volume.

This should be done as the bare minimum, but it would be much better for the national economy and for all consumers, including farmers, if the petroleum import adjustment program were rejected or abandoned.

In attachment G we show the estimated farm use of gasoline and diesel fuel for 1980 by States.

The impact of the 10-cent-a-gallon price increase on farmers of each State thus can be readily calculated.

Mr. Chairman, it is an honor for me to share the witness stand here with Congressman Daschle. He represents a rural district in one of the most rural States in the United States, South Dakota, and we are very proud to have him as a supporter in the Congress. He has been a strong advocate of farmer concerns; he has been very close to the farmers, not only in his district but also all over the State of South Dakota, and we are honored to be here with him, and to endorse his legislation.

Thank you, sir.

[Attachments to the statement follow:]

ATTACHMENT "A"

LEGISLATIVE BACKGROUND
AND IMPLICATIONS
PRESIDENTIAL PROCLAMATION 4744, PETROLEUM IMPORT ADJUSTMENT PROGRAM AND PROPOSAL FOR SPECIFIC GASOLINE CONSERVATION TAX

When President Carter, on April 2, 1980, issued Proclamation 4744, the PETROLEUM IMPORT ADJUSTMENT PROGRAM, he cited the finding of Treasury Secretary Michael Blumenthal on March 14, 1979 that imports of petroleum and petroleum products were entering the country "in such quantities and under such circumstances as to threaten to impair the national security."

The Treasury study was made and the Proclamation 4744 issued under the authority of Section 232 of the Trade Expansion Act of 1962 and preceding statutes which allow the President to limit imports which the Treasury Department finds to threaten national security.

Section 232, which appears in the statutes as 19 U.S.C. 1862, is entitled "Safeguarding national security---Prohibition on decrease or elimination of duties or other import restrictions if such reduction or elimination would threaten to impair national security."

It was designated to authorize the President to bar the decrease or elimination of duties or other import restrictions if he determined that such a reduction or elimination would threaten to impair the national security. It appears from our reading that this section was intended to protect domestic industry from harmful levels of imports, serious enough to affect the national security.

19 U.S.C. 1862 does not appear to be a proper basis for the action taken in Proclamation 4744.

The President also cited the Emergency Petroleum Allocation Act of 1973 as a basis for Proclamation 4744.

The 1973 Act grants to the President "specific temporary authority to deal with shortages of crude oil, residual fuel oil, refined petroleum products, etc.," and directs that "the authority granted under this Act shall be exercised for the purpose of minimizing the adverse impacts of such shortages or dislocations on the American people and the domestic economy."

We believe that the implementation of the crude oil import fee maximizes rather than minimizes the adverse impacts of the energy shortages upon American consumers and farmers and domestic industries.

ATTACHMENT "B"

NATIONAL FARMERS UNION POLICY STATEMENT FOR 1980

PERTINENT REFERENCES TO ENERGY AND AGRICULTURE

Energy policy must serve the Nation's need for food and fiber. To that end, energy policy must be consistent with our system of family farm agriculture.

The elements of a national energy policy must include:

- Reducing control of giant corporations of the sources, production and distribution of energy;
- Equitable distribution and efficient development of energy to assure adequate production of food and fiber;
- Pricing policy that will prevent economic hardship;
- Balancing energy needs with the necessity to maintain a safe and ever-renewing environment; and
- A massive program to develop renewable sources of energy to reduce our dependence on fossil fuels, including economic assistance for family farmers to make agriculture more self-sufficient through increased application of alternative forms of energy. To this end we urge crash programs for development of solar, geothermal, wind, hydrogen, methane gas, alcohol, and other non-polluting energy sources...with special emphasis on small-scale, self-sufficient on-farm or local cooperative applications.

To assure adequate and fairly-priced fuel for farming, we advocate that regulations must be established to assure that farmers receive adequate supplies of gasoline, diesel, propane and other forms of energy necessary to carry on full-scale production despite any breakdown in the distributive system. Such regulations must also assure that the allocation of the total U.S. crude oil supply (domestic and imported) is equitably made between oil refineries assuring that cooperatives and independents receive a fair share at reasonable prices.

Strong civil and criminal penalties and enforcement authority must be provided in a mandatory fuels allocation program to assure an effective deterrent against non-compliance by the major integrated oil companies.

Before any wholesale petroleum supplier may withdraw from a service area, the Department of Energy should require that a replacement supplier be assured for the same service and provide the same quantity of petroleum products.

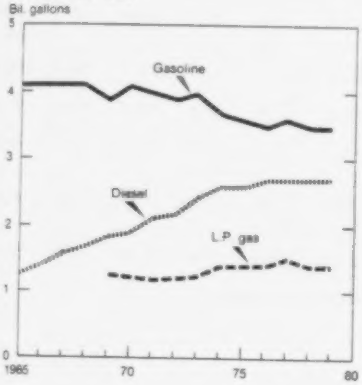
We support legislation for the mandatory allocation of natural gas to fertilizer manufacturing plants in orderthat no nitrogen manufacturing plant will be forced to operate at less than full capacity due to inadequate supplies of natural gas as a feedstock.

Farmers have little opportunity to respond to increased costs of gasoline, diesel fuel, or other crude oil products by any meaningful reduction in consumption of such products. We therefore reject the imposition of taxes or other measures with the objective of curtailing the use of such energy on the Nation's farms.

If voluntary conservation proves inadequate, we favor rationing of fuels, with allocation on a priority basis, with agriculture and food production given top priority. Farm fuel allocation programs should be administered through the ASCS system.

ATTACHMENT "C"

Farm Fuel Use



Farm Fuel Use

	1972	1973	1974	1975
		Billion gallons		
Gas	3.9	4.0	3.7	3.6
Diesel	2.2	2.48	2.6	2.8
Liquefied petroleum gas	—	1.25	1.2	1.05

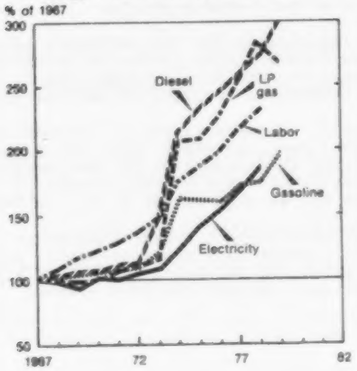
	1976	1977[1]	1978[1]	1979[1]
		Billion gallons		
Gas	3.7	3.75	3.5	3.5
Diesel	2.9	3.0	2.7	2.7
Liquefied petroleum gas	1.1	1.3	1.4	1.4

[1] Estimated.

— = not available.

ATTACHMENT "D"

Energy Prices Paid by Farmers



ENERGY PRICES PAID BY FARMERS, 1971-1980

(cents per gallon unless otherwise indicated)

	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980
Gasoline (bulk del.)	30.8	31.1	37.4	46.0	49.8	53.7	56.9	59.7	90.5	114.0*
Diesel	----	19.1	28.3	40.5	39.1	41.6	44.9	46.2	81.0	97.8*
LP Gas	----	----	16.9	30.2	31.1	34.5	38.9	40.4	41.3	60.9*
Elec.Power ¢ per kwh	----	----	2.31	2.66	3.07	3.35	3.68	3.98	4.00	4.38+
Labor $ per hr.	----	----	----	2.25	2.45	2.65	2.90	3.10	----	----

+ Projection for year   * Price paid March 15, 1980

ATTACHMENT "E"

RECENT CHANGES IN AVERAGE FUEL COST PER ACRE

AVERAGE FUEL COST PER ACRE AND VARIABLE COST PER ACRE, 1975-79

Year and Crop	Fuel Cost per Acre	Total Variable Cost per Acre	Fuel as a share of Variable cost (percent)
Corn:			
1975	$ 5.72	$ 91.21	6.3
1976	6.00	86.39	7.0
1977	7.89	96.41	8.2
1978	8.41	98.27	8.6
1979	11.10	104.80	10.6
Wheat:			
1975	4.72	39.50	10.4
1976	4.55	36.20	12.6
1977	4.80	37.24	12.8
1978	5.19	37.64	13.8
1979	6.85	41.35	16.5
Cotton:			
1975	8.43	143.99	5.9
1976	8.98	152.17	5.9
1977	11.45	168.21	6.8
1978	11.98	162.54	7.3
1979	15.81	175.61	9.0

ATTACHMENT "F"

RECENT LEGISLATIVE HISTORY ON ENERGY CONSERVATION TAXATION PROPOSALS

October 29, 1974---John Sawhill relieved of duties as federal energy administrator by President Ford. Congressional Quarterly attributed the dismissal to Sawhill's strong "advocacy of higher gasoline taxes."

June 11, 1975---In acting upon H. R. 6860, the U.S. House rejected two proposals which had cleared the Ways & Means committee. The committee had recommended a 3¢ a gallon gas tax increase, with provision for a 20¢ increase if consumption were not reduced. The vote on the 20¢ tax proposal was 345 to 72 against. The 3¢ tax increase was also then rejected.

April 20, 1977---President Carter, in a joint message to Congress on energy, proposed the imposition of a 5¢ a gallon tax on gasoline, plus an additional 5¢ a gallon increase in each year in which the Nation fails to meet conservation targets, up to a maximum of a 50¢ a gallon tax. No action was taken by the Congress.

April 2, 1980---President Carter issues Proclamation 4744, the Petroleum Import Adjustment Program, establishing a crude oil import fee at $4.62 a barrel, with the effect to be reflected only in the retail prices of gasoline at a rate of 10¢ a gallon. In a March 14 announcement, the President had advised Congress that he would submit a ,roposal for legislation to impose a specific 10¢ a gallon tax on gasoline and that the crude oil import fee would be terminated as soon as the conservation tax became effective.

ATTACHMENT "G"

ESTIMATED ENERGY USE IN AGRICULTURE FOR 1980 PRODUCTION YEAR

(in thousands of gallons)

State	GASOLINE	DIESEL FUEL
Alabama	50,140.8	54,074.4
Alaska	390.0	330.7
Arizona	19,598.1	31,964.4
Arkansas	73,457.8	103,707.4
California	148,102.6	188,717.7
Colorado	68,514.6	79,613.1
Connecticut	6,371.0	2,759.0
Delaware	7,349.0	5,444.8
Florida	48,459.0	84,323.0
Georgia	63,735.3	110,711.0
Hawaii	5,633.0	19,847.0
Idaho	62,162.8	69,377.7
Illinois	247,303.6	182,784.0
Indiana	122,584.7	75,287.0
Iowa	233,071.7	247,986.1
Kansas	177,179.1	238,604.1
Kentucky	63,810.4	38,040.0
Louisiana	48,793.5	67,501.7
Maine	12,608.0	7,513.0
Maryland	22,028.9	19,827.9
Massachusetts	6,618.0	2,867.8
Michigan	83,482.8	60,462.0
Minnesota	223,172.2	165,073.9
Mississippi	51,903.7	69,499.9
Missouri	156,902.2	151,522.6
Montana	67,211.5	50,099.1
Nebraska	146,067.8	197,620.1
Nevada	7,653.0	5,360.0
New Hampshire	3,190.0	2,060.0
New Jersey	16,274.0	7,884.0
New Mexico	23,577.1	20,747.0
New York	90,517.5	70,295.4
North Carolina	73,966.1	62,980.1
North Dakota	112,416.7	124,670.3
Ohio	121,269.4	166,565.4

Oklahoma	56,880.2	90,652.4
Oregon	54,498.4	40,929.1
Pennsylvania	82,289.8	42,962.8
Rhode Island	1,102.0	679.2
South Carolina	5,091.0	39,244.9
South Dakota	21,191.6	95,329.2
Tennessee	47,880.3	29,296.8
Texas	210,116.3	306,188.3
Utah	20,952.0	13,914.9
Vermont	3,971.0	5,256.0
Virginia	39,276.1	30,756.3
Washington	84,450.1	85,914.0
West Virginia	7,029.0	2,756.6
Wisconsin	143,837.1	54,998.5
Wyoming	22,951.2	17,533.6
U.S. Total	3,476,332.4	3,682,975.4

Mr. VANIK. Mr. Congressman, your entire statement has been put in the record. You might add to it.

STATEMENT OF HON. TOM DASCHLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH DAKOTA

Mr. DASCHLE. Thank you, Mr. Chairman. I will read in part and I appreciate the opportunity that the committee is giving me to address the whole issue of the gasoline conservation fee. I believe the President's program is very seriously flawed.

Under the President's program all gasoline consumers are forced to bear the burden of increased price. Presumably the President believes all energy consumers and all sectors of the economy are equal in ability to absorb this higher price, equal in ability to reduce consumption, and share an equal economic condition. This "equality" does not exist.

Because Mr. Carter has either failed to recognize or chosen to ignore the differences which do exist, I have introduced legislation, H.R. 7043, to provide repayment of the oil import fee gasoline price increase to certain consumers. These consumers are presently exempt from the Federal excise tax on gasoline and include agriculture, qualified business users, State, county, and municipal government, nonprofit educational organizations, intercity, local and school bus systems, and specified vessels or aircraft.

I, too, believe energy conservation and particularly gasoline conservation are essential if we are to succeed in reducing our Nation's unwelcome continuing dependence on uncertain supplies of increasingly costly foreign oil, but I also believe perspective is needed.

The current economic plight of America's food and fiber producers is extremely serious. During the last year, farm production costs have skyrocketed, increasing 21.5 percent, due in large measure to rising energy costs while the value of farm production has fallen, by 1.7 percent last month alone.

The March 1980, parity ratio for farm commodities, the indicator of farmers' buying power, was 63 percent, the second worst parity ratio since December 1931, the depth of the Great Depression. The condition of our agricultural economy today sadly reflects the condition which existed a quarter century ago, a condition which led to Congress providing an exemption from the Federal excise tax on gasoline for agricultural use. The report of the Senate Finance Committee which accompanied H.R. 8780 during the 84th Congress said, in part:

> The depressed situation in agriculture probably constitutes the most important domestic problem before Congress at the present time. The decline in farm income has now continued for several years and unless reversed, is likely to constitute a threat to the well-being of the entire economy. The farmer today is caught in a severe price-cost squeeze. At the same time farm prices are declining, the costs of articles he must buy have risen. This problem must be met on several fronts, one of these involving the reduction of the costs which the farmer must pay.

I can find no justification for increasing the cost of essential gasoline used in agriculture. Energy consumption in agriculture is essentially inelastic and food and fiber production requires major energy investment. Agricultural producers in my district have already begun and will continue to conserve energy whenever possible; the economics of agriculture dictate energy conservation and neither permit nor reward energy waste.

Farmers and ranchers in South Dakota are not burning thousands of gallons of gasoline a year cruising through the parking lots of fast food restaurants in combines. The gasoline conservation fee will, thus, "succeed" in increasing gasoline and production costs for agriculture and will worsen an already serious economic condition, but it will have minimal, if any, effect on conservation.

Already during the first 2 months of 1980, the price of gasoline has increased by 134.2 percent on an annualized basis. Farmers in my district are patriotic, resourceful, and practical, but they are not magicians. This 10-cent-per-gallon increase in the price of gasoline will alone increase the cost of gasoline used in agriculture in South Dakota by more than $7.5 million per year.

Agriculture producers in South Dakota have been denied a market for their product as a result of the grain embargo, will now be required to absorb a 10-cent-per-gallon increase in the price of gasoline, and are expected to remain viable. This is simply not possible and this policy is both unwise and unfair.

In addition to agricultural users, other current excise tax exempt users would be eligible for repayment of the oil import fee gasoline price increase following enactment of H.R. 7043. These consumers include State, county, and municipal government, intercity, local, and school bus systems, the construction industry, nonprofit educational organizations, and specified vessels or aircraft.

I am certain members of the subcommittee are very well acquainted with the current economic condition of the construction industry. Housing starts, one measure of construction activity in our country, have fallen from more than 1.7 million starts last spring to nearly 1.3 million starts this spring. Total starts for the month of March fell to the annual rate of 1.041 million, a rate 22 percent below February and 42 percent lower than a year ago. One million units is but one-half of our Nation's housing start goal.

The oil import fee will needlessly increase the cost of gasoline used by State, county, and municipal government. South Dakota is a rural State. The population density of South Dakota is 9.1 people per square mile. By comparison, Mr. Chairman, the population density of Ohio is 262.3 people per square mile.

This, of course, means many more miles must be traveled in South Dakota in the provision of public services. Political subdivisions throughout the country are already under increasing pressure to reduce the cost of Government. As a consequence of the oil import fee, will county commissioners in South Dakota be forced to reduce law enforcement activities or curtail other essential public services because the county cannot afford this gasoline price increase?

I am aware of the interest of Mr. Conable, the ranking minority member of the full committee, and Mr. Fisher, a member of this subcommittee, in the viability of the nonprofit sector of our economy. In this regard, I note nonprofit educational organizations are presently exempt from the Federal excise tax on gasoline and would be eligible for repayment of the oil import fee gasoline price increase under the provisions of H.R. 7043.

The most apparent and immediate problem of the nonprofit sector is financial insolvency. Increasing the price of gasoline 10 cents per gallon for nonprofit educational organizations as the oil import fee will do is obviously no solution for financial insolvency.

In conclusion, Mr. Chairman, I would like the subcommittee to be aware that late last week, the executive board of the National Farmers Union, representing 300,000 members, voted to endorse and actively support H.R. 7043. The Farmers Union is the first national organization to formally endorse and support H.R. 7043 and I am especially pleased that Mr. Reuben Johnson, director of legislative services for the Farmers Union could join with me in testifying in support of this legislation this afternoon.

This concludes my statement and again I want to reiterate to the committee members my thanks for allowing this time to testify before you this afternoon.

Mr. **Vanik**. Thank you very much. Mr. Frenzel.

Mr. **Frenzel**. I have no questions, Mr. Chairman. I thank both witnesses for their fine testimony.

Mr. **Vanik**. Thank you very much. We certainly appreciate your testimony. Is there anyone else in the room that was scheduled to testify? If not, this completes our agenda of business, so the committee will be adjourned until the call of the Chair.

[Whereupon, at 2:50 p.m., the hearing was adjourned, to be reconvened at the call of the Chair.]

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OIL IMPORT FEES: THE ADMINISTRATION OF THE PROGRAM AND ITS IMPACT

FRIDAY, MAY 9, 1980

House of Representatives,
Committee on Ways and Means,
Subcommittee on Trade,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 210, Cannon House Office Building, Hon. Thomas J. Downey presiding.

Mr. **Downey**. This is a continuation of our hearings on the impact of the oil import fee and gasoline conservation fee program proclaimed by the President on March 14.

I regret the schedule with the House and commitments throughout the country mean that most Members will not be able to attend this hearing. We will summarize your statements and provide them to all of the subcommittee members.

I understand that all of the witnesses today are opposed to the President's program. Therefore, I would hope that you will not duplicate each other in detailing your reasons for opposition. We will request that your oral statements be held to 5-minute summaries. Your written statements will be entered into the record in full.

I also hope that in addition, you will tell us why you are against the President's program. You can tell us what you do support in terms of conserving energy. This Nation clearly needs to do more to reduce oil imports. The issue is how we can do that with minimum hardship to the public.

The subcommittee will meet Tuesday to consider Mr. Shannon's resolution and others, to disapprove the President's action. I hope that the full committee will meet soon thereafter to vote on recommendations of the subcommittee, and I want to express my apologies also to the witnesses who have come from near and far to testify today, that we will have to end these hearings at 11:30. It is my intention to make sure that everyone gets an opportunity to testify.

I also want to make a brief statement concerning action in another committee which I believe is relevant to what we are doing today. As we are engaged in the consideration of the import fee I believe we should take notice of some important events taking place in another committee. On April 24, 1980, the Subcommittee on Environment, Energy, and Natural Resources of the Committee on Government Operations issued a subpena to Secretary of Energy Charles Duncan for certain documents regarding the petroleum import fee. The subpena was issued after formal written requests for these documents, approximately 65 in number, commencing on April 8, 1980, were unavailing in obtaining production from the Department.

As I understand the situation, the central focus of the committee's request consists of internal DOE memoranda and drafts of policy and legal advice on and discussions of the import fee, and its implementation and effect. Although the committee has neither waived nor abandoned its claim to other documents within the scope of the subpena, to date, not even internal DOE documents have been unconditionally provided to the subcommittee.

The need for these documents in fulfilling the Congress legislative and oversight functions is readily apparent. The consideration by this committee of legislation relating to the import fee is but one example of critical congressional need for review of the documents being sought by the subcommittee. In determining whether to revoke or modify existing statutory authority for the fee, or to determine whether it is in essence a revenue raising measure, it is imperative that we, the legislative branch, which created DOE, have access to all pertinent information and views within the Department concerning the fee, its anticipated impact, and its proper implementation.

As a matter of sound legislative policy, we should have the benefit of the knowledge and expertise which we have lodged in DOE, and to which we have delegated responsibilities for the formulation and execution of energy policy. Accordingly, we must be able to obtain all the internal DOE documents being sought, whether they consist of analysis, views, or recommendations of middle level employees, attorneys or any other member of the bureaucracy, so that we may thoroughly and conscientiously evaluate the fee program and its ramifications.

This is not a case where the documents at issue have only some arguable relevance to a subject Congress has investigated, or to areas in which it may propose legislation. There is a specific legislative proposal on the table, so to speak, to which these documents are highly relevant. Decisions will be made by this committee within the next week which cannot intelligently be made without these documents. Clearly, the decisions on the import fee cannot and should not be made without access to views of the experts within DOE responsible for, and participating, in its implementation.

It is my further understanding that White House Counsel, Lloyd Cutler has at least preliminarily asserted a lawyer-client privilege over some of these documents, as well as a claim of executive privilege. I believe this is unfounded and unfortunate.

The Congress, as the constitutional lawmaking body, has a right to, and a legitimate need for, the views of Government lawyers within DOE on the implementation and impact of the fee program. In a very fundamental sense, the Congress as the principal, has called for information from its agent, the DOE, necessary for the responsible performance of its functions.

For Congress to legislate without the full benefit of these documents and the views of DOE personnel contained therein might well leave it in the position of having to act without all the facts and opinions available to it. This is a course the Congress should always reject.

I hope that the administration will be forthcoming with all the documents under subpena for the reasons I have outlined so that we may legislate wisely and effectively.

I am personally opposed strongly to the oil import fee.

When Mr. Archer from the full committee asked Secretary Duncan whether a regional impact study had been made on what this import fee would mean, he said they had not. My local newspaper, Newsday, had done one in conjunction with the Wharton Econometric Forecasting. They found that the tax alone will increase Long Island's inflation rate by 1.1 percent.

Particularly hard hit will be retail sales, which in turn will lead to a loss of jobs. Drivers will pay an additional $124 million in the next 12 months for gasoline on Long Island alone. The tax will result in a loss of $64 million retail sales, or a loss of about 1½ percentage points. There are also estimated 1,700 jobs on the line in this first year of the tax.

I cannot, as I said before, in good conscience support his fee. Those reasons dearest to my heart as a Congressman, jobs and inflation, I think provide ample reasons why I cannot.

[An attachment to the statement follows:]

[From Newsday]

New 10¢ Gas Tax To Hurt Island More Than City, Forecast Says

(By Adrian Peracchio)

The upcoming 10-cents-a-gallon gasoline tax will depress retail sales, reduce jobs and erode personal income in suburban areas like Long Island, but will have negligible effect on older urban areas with well-developed mass-transit systems like New York City, according to an economic forecast.

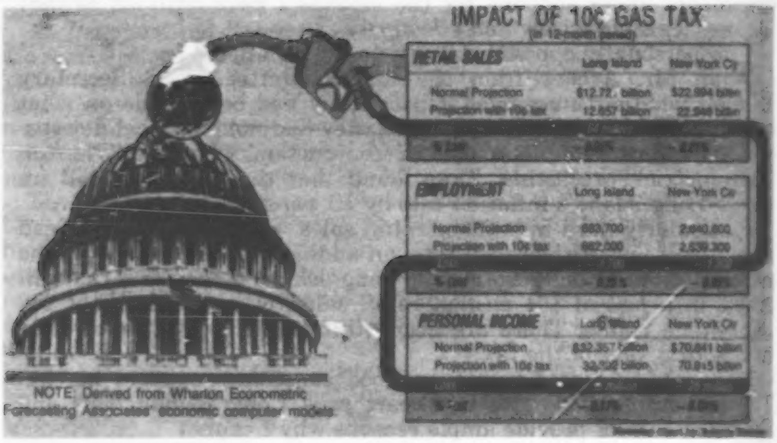
The forecast also found that the tax alone will increase the Island's inflation rate by 1.1 percent. The forecast was prepared by Newsday using a computer model developed by Wharton Econometric Forecasting Associates.

Ordered by President Carter as a way to reduce dependence on foreign oil, the tax is due to take effect in mid-May.

The forecast shows that Long Island—defined in the model as Nassau and Suffolk Counties—will be particularly hard-hit on retail sales, which in turn will lead *to some loss of jobs*. But the Island's industry, dominated by defense and electronics contracts, will be comparatively immune from the aftershocks of the 10-cent gasoline tax, unlike regions where the auto industry and related businesses provide most of the jobs.

"The one thing this economic analysis does not take into account," said Dan Fromm, a Wharton economist in charge of developing the forecasting model for the New York region, "is the individual adjustments that people will make after they get over the shock of the added gasoline tax. They will drive a little less, plan their trips better. But there is a certain irreducible amount of driving that people have to do in an area like yours and they cannot absorb all the shock of each price increase."

The Long Island forecast is based on 1979 gasoline consumption averaging 2.2 gallons per car per day—a conservative estimate based on state-supplied figures. Wharton is due to release its full forecast next week on the effect, on each of the nation's regions, of the gasoline tax and other fiscal policies adopted last month by the Carter administration.



IMPACT OF 10¢ GAS TAX
(in 12-month period)

RETAIL SALES	Long Island	New York Ci
Normal Projection	$12.72 billion	$22.994 billion
Projection with 10¢ tax	12.657 billion	22.949 billion
[illegible]	[illegible]	[illegible]
% Loss	[illegible]	− 0.27%

EMPLOYMENT	Long Island	New York Ci
Normal Projection	683,700	2,640,600
Projection with 10¢ tax	682,000	2,639,300
Loss	[illegible]	[illegible]
% Loss	− 0.25%	[illegible]

PERSONAL INCOME	Long Island	New York Ci
Normal Projection	$32.357 billion	$70.841 billion
Projection with 10¢ tax	32.302 billion	70.815 billion
Loss	[illegible]	[illegible]
% Loss	− 0.17%	[illegible]

NOTE: Derived from Wharton Econometric Forecasting Associates' economic computer models.

Energy Secretary Charles W. Duncan told a congressional committee Thursday that the Department of Energy had not studied the fiscal effects of the tax on regional economies or segments of the economy like suburban commuters, the trucking industry or the auto industry. But Duncan said he would be willing to undertake such a study now.

Duncan pleaded with congressional leaders not to kill the tax, arguing that its potential to save 100,000 barrels of imported oil a day would far outweigh its economic deficits. The tax is under heavy fire in Congress and a growing number of representatives are convinced that Congress will vote to override the President's order. Carter, however, has vowed to veto a rejection.

After Duncan's testimony, Rep. Tom Downey (D-West Islip) said Americans know the price of gasoline must rise because of international problems, "but they resent it like hell that the government is trying to drive it even higher."

The forecast derived from the Wharton model, projecting the effects of the tax during a five-year period on Long Island, shows that the tax will hurt Long Islanders the most by eroding their purchasing power. Perhaps more disturbing, the forecast shows the tax will further weaken the Island's economy in four important ways and edge it closer to a recessionary slide. These are the major projections:

Long Island's relatively low rate of inflation—11.5 percent so far this year—will be boosted 1.1 percent by the 10-cent tax, forcing Island drivers to pay an additional $124 million in the next 12 months for gasoline. The inflationary effects will diminish somewhat after the first 12-month period, however.

The tax will result in a loss of $64 million in retail sales in the first 12 months on Long Island, or a loss of about half a percentage point. Instead of rising to the expected $12.721 billion, retail sales would reach only $12.657 billion. By the fifth year, the loss will be 0.34 percent, with sales rising to $19.33 billion instead of $19.40 billion.

The drop in retail sales, in turn, will result in a loss of jobs, but it will only affect a minute portion of the Island's labor force. In the first twelve months, the tax will cause a loss of 1,700 jobs on Long Island, cutting jobs from a projected total of 683,700 to a revised total of 682,000. The effect will progressively lessen. In the fifth year, the job loss due to the tax will be 1,300. Most of the loss is expected to be in low-paid retail jobs.

The tax will also cause a loss of $55 million in personal income in the first 12 months, an erosion of 0.17 percent from the projection of $32.35 billion for Long Island. In the fifth year, the loss will be $59 million, but it will account for a drip of only 0.13 percent in total income.

"Consumers will respond to the price increase by buying less of other, competing goods, because in essence their income will be lowered," Fromm said.

Although the extra cost generated by the tax will artificially nudge up the nominal value of retail sales, it will be an empty inflationary gain, since it will actually mean that at least the $124 million spent on additional gasoline will be taken away from the real exchange of goods in Long Island trade in the first 12 months. The result: instead of retail sales (real exchange of goods as opposed to spending on the gas tax) growing at an expected rate of 8.8 percent, they will only grow at an 8.3 percent rate.

Another Wharton economic analyst, Gene Quill, said the coupling of two of the tax's effects—rising inflation rates and a softening of the retail sales growth—can be interpreted as a weakening of the local economy, if not the harbinger of a recessionary trend.

New York City clearly comes off better than Long Island. In the first 12 months, the 10-cent tax is predicted to lose the city $48 million in retail sales, or only 0.21 percent of a $22.9 billion total, less than half the percent loss in Long Island. And the city will suffer only a 0.05 percent cut in jobs and a 0.04 percent reduction in personal income.

Wharton's six-month projection for the nation shows that 372,000 jobs would be lost, a total of 0.39 percent of the labor force, and personal income would be eroded by $8.4 billion, also 0.39 percent. The national projection, however, is based not only on the gasoline tax effect, but factors in other economic actions ordered by Carter, such as cuts in federal spending and tighter credit rules.

Some economists fear that areas heavily dependent on cars for commuting to work are close to reaching a point where further reduction in gasoline consumption will become difficult. Demand for gasoline, long considered to be highly elastic, is getting more brittle, they said.

"I would be inclined to severely question the administration's notion that there is still a lot of discretionary driving going on," said Arnold Cantor, director of economic research for the AFL-CIO in Washingtion. "I suspect we are getting down to a hard core in some areas, and it's clear now that some people will have too little flexibility in changing their driving habits and will be forced to either keep paying higher and higher prices or lose their jobs." In congressional testimony, the AFL-CIO predicted that about 300,000 jobs would be lost the first year because of the gasoline tax.

Marc Cooper, head of research for the Consumer Energy Council of Ameria, said "We have gotten to the point where each penny on a gallon of gas has tremendously magnified economic impact because there is a certain number of people and small businesses who are living right on the edge, a very thin margin. That extra cent can send them over the edge."

On Long Island, independent gasoline retailers fear they will be the first to suffer, along with motorists. "It's a tremendous outlay at today's wholesale prices for dealers to fill up," said Bill Griffin, executive director of Tri-State Gasoline Retailers in Farmingdale, representing 1,200 independent dealers in Nassau, Suffolk and Queens, "Three years ago, we paid $3,000 for the average load. Today we pay $11,000 and now we have to come up with 10 per cent upfront on top of all that and it's impossible to get short-term credit. We are afraid some dealers will go under."

Lee Koppelman, executive director of the Long Island Regional Planning Board, said the tax was another example of the Carter administration's "highly discriminatory tendency" to put most of the burdens of energy conservation on suburban auto commuters.

"We are beginning to see people making hard choices between competing necessities, not between luxuries and necessities," Koppelman said. "We'll hit bottom when most of us will have to make a decision between putting in a gallon of gas to go to work or buying food. We are not at that point yet, but we are getting there."

Mr. **DOWNEY**. Before I proceed, I would like to submit for the record the statement of my colleague, Congressman John J. Duncan.

[The statement follows:]

STATEMENT OF HON. JOHN J. DUNCAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to testify before you today in opposition to President Carter's oil import fee proposal. In sum and substance, the fee cannot be justified, particularly when one considers our inflationary economy at this time. There is every indication that gasoline prices will rise to an astronomical level of their own accord without further assistance from this administration.

I find a bitter irony in Mr. Carter's designation of OPEC as the culprit behind our burdensome inflation rate, and his decision to emulate the desert sheik's policy of unjustified oil price hikes. If energy prices are the primary factor on the President's inflation equation, why not really combat the problem rather than adding fuel to the fire?

The conservation impact of this measure will be so slight, that I am forced to conclude that we are instead being asked to validate a revenue raising procedure rather than an energy conservation measure that will somehow increase inflation by first increasing it.

Nothing comes cheap these days, and this proposal is no exception. If we approve this mistake, the already hard pressed American taxpayer will pay $10 to $12 billion to decrease our total consumption by one-half of one percent. We have made significant progress in reducing gasoline consumption already, and I am confident that this progress will continue. We should be talking about tax cuts instead of tax increases.

I therefore, invite my colleagues to reject this proposal, thus dispatching to the White House a message asking that the President send us a proposal that will both grapple with problems of inflation and energy in a responsible, effective manner.

Thank you.

Mr. DOWNEY. Our first witness is Dr. Frank Collins, the Oil, Chemical & Atomic Workers International Union, AFL-CIO. Dr. Collins, welcome and thank you for being so patient during the Chair's opening remarks.

STATEMENT OF FRANK COLLINS, CONSULTANT, OIL, CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION, AFL-CIO

Dr. COLLINS. Thank you very much, Mr. Chairman.

Mr. Chairman, my name is Frank Collins. I am consultant on energy matters for the Oil, Chemical & Atomic Workers International Union.

We greatly appreciate this opportunity to appear before this committee to present our views on the crude oil import fee and the coupled gasoline "conservation" fee established by the President's proclamation of April 2, 1980.

What follows is a condensed version of the longer statement that we have furnished to the committee.

OCAW is vigorously opposed to the import fee plus gasoline tax set by the President's proclamation. We believe that the only purpose of the crude oil import fee is to enable the President to bypass the prerogatives of the Congress and establish a tax of doubtful legality by administration fiat.

The crude oil import fee will do nothing to reduce imports. As we all know, the import fee paid to the U.S. Treasury will be 100 percent refunded to the importers from the special entitlements fund into which the gasoline conservation fee is paid. The net effect is the transfer of 10 cents per gallon of gasoline from the consumer to the U.S. Treasury. The effect on the economics of oil imports is nil.

As a device to conserve gasoline, the 10-cent fee on gasoline sales is wildly cost ineffective. We have some figures to back up this statement. During the past 12 months the price of gasoline has gone up about 60 cents per gallon. Gasoline consumption has dropped by slightly more than 10 percent in the year. The cost to consumers of the additional 60 cents per gallon is over $60 billion annually.

We can calculate the minimum cost to consumers of a gallon of gasoline saved by the 10-cent conservation fee. Suppose we assume that the decrease in consumption this year compared to last year was due solely to the 60 cent price increase and not due to other economic conditions. We now divide the total cost to consumers of the 60-cent increase by the gallons saved. We come out with the cost of $5.27 per gallon saved.

This is what we mean by saying that the 10-cent fee per gallon would be "widely cost-ineffective" as a conservation tool. As some of the less essential driving has already been eliminated by the previous 60-cent rise in the price of gasoline, the additional 10-cents is going to be even less effective in reducing the consumption of gasoline. Thus it may be fully expected that the cost to consumers of a gallon of gasoline conserved under the President's 10-cent fee will be considerably more than $5.27.

It can be assumed that the President's advisers are thoroughly familiar with the above set of facts. The only explanation for the proclamation is that the real intent of the oil import fee is to increase revenues to the U.S. Treasury and that it is not a measure to promote conservation. The administration predicts an increase of Treasury revenues of $10.3 billion per year and that is the nub of the matter.

The increase of revenues to the U.S. Treasury is the issue, oil imports reduction and gasoline conservation are a masquerade.

As a device for raising Government revenues, the President's proclamation establishes a $10.3 billion per year sales tax. A sales tax is universally recognized to be a highly regressive tax. That is, a sales tax is burdensome to those of moderate means and scarcely touches the affluent.

On an individual family basis, the cost of the new gasoline fee is heavy. It averages almost $200 per year for a family of four. The new gasoline fee is an incredible action on the part of an administration which claims the highest priority for the fight against inflation. In these terms the imposition of a new gasoline fee is an attempt to fight inflation by raising prices.

OCAW is also concerned about the padding of the passthrough of the 10-cent-per-gallon gasoline fee. Besides the 10 cents per gallon starting May 15, the industry is already passing through crude oil price increases, both OPEC and those taking place under the phased decontrol of domestic crude. It will be the easiest thing in the world to pass through 10 cents plus padding without its being visible to the customers. As is well known, the DOE enforcement staff is too small to deal with the widespread violations that may be expected to occur.

Congressman Benjamin Rosenthal pointed out similar padding of passthroughs of crude oil price increases in the cases of unregulated home heating oil and diesel fuel in a statement issued last January. The padding of passthroughs enabled refiners' profits to increase more than 700 percent on these two products in a single year. OCAW fears that the passthrough of the President's 10-cent fee on gasoline will provide similar opportunities for profiteering.

It is not seen how the mechanism provided in the President's proclamation is adequate to insure that the 10-cent passthrough is limited to a 10-cent rise in the price of gasoline. Rises in the prices of gasoline may be accompanied by similar rises in the prices of unregulated products such as diesel fuel. It would be very surprising if a 10-cent increase in the prices at the gasoline pumps were not accompanied by a higher price posted at the diesel fuel pump. In fact, what is there to stop it?

OCAW is further concerned that the mechanics of the crude oil import fee plus gasoline fee will encourage the import of gasoline as against the import of crude oil to be refined into gasoline domestically. We note that there is an average delay of 75 days between the payment of the crude oil import fee and the refund of this fee from the gasoline refiners special entitlements fund. The import fee for gasoline, on the other hand, is reimbursed immediately on being passed through to the jobber on first sale.

The President has left Congress with no alternative but a legislative veto, the passage of a resolution denying the administration authority to carry out the terms of the proclamation of April 2.

That concludes my statement.

[The prepared statement follows:]

STATEMENT OF THE OIL, CHEMICAL, & ATOMIC WORKERS INTERNATIONAL UNION

My name is Frank Collins. I am Consultant on energy matters for the Oil, Chemical and Atomic Workers International Union.

We greatly appreciate this opportunity to appear before this Committee to present our views on the crude oil import fee and the coupled gasoline "conservation" fee established by the President's Proclamation of April 2, 1980.

OCAW is vigorously opposed to the import fee plus gasoline tax set up by the President's Proclamation. We believe that the only purpose of the crude oil import fee is to enable the President to bypass the prerogatives of the Congress and establish a tax of doubtful legality by Administration fiat.

The crude oil import fee will do nothing to reduce oil imports. As we all know, the import fee paid to the U.S. Treasury will be 100 percent refunded to the importers from the special entitlements fund into which the gasoline conservation fee is paid. The net effect is the transfer of 10 cents per gallon of gasoline from the consumer to the U.S. Treasury. The effect on the economics of oil imports in nil.

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During the past twelve months the price of gasoline has gone up by about 60 cents per gallon. Gasoline consumption has dropped by slightly more than 10 percent in the year. The cost to consumers of the additional 60 cents per gallon is over $60 billion annually.

We can calculate the minimum cost to consumers of a gallon of gasoline saved by the 10 cent conservation fee. Suppose we assume that the decrease in consumption this year compared to last year was due solely to the 60 cent price increase and not due to other economic conditions. We now divide the total cost to consumers of the 60 cent increase by the gallons saved. We come out with the cost of $5.27 per gallon saved.

This is what we mean by saying that the 10 cent fee per gallon would be "wildly cost-ineffective" as a conservation tool. As some of the less essential driving has already been eliminated by the previous 60 cent rise in the price of gasoline, the additional 10 cents is going to be even less effective in reducing the consumption of gasoline. Thus it may be fully expected that the cost to consumers of a gallon of gasoline conserved under the President's 10 cent fee will be considerably more than $5.27.

It can be assumed that the President's advisors are thoroughly familiar with the above set of facts. The only explanation for the Proclamation is that the real intent of the oil import fee is to increase revenues to the U.S. Treasury and that it is not a measure to promote conservation. The Administration predicts an increase of Treasury revenues of $10.3 billion per year and that is the nub of the matter.

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As a device for raising government revenues, the President's Proclamation establishes a $10.3 billion per year sales tax. A sales tax is universally recognized to be a highly regressive tax. That is, a sales tax is burdensome to those of moderate means and scarcely touches the affluent.

On an individual family basis, the cost of the new gasoline fee is heavy. It averages almost $200 per year for a family of four. It comes on top of the costs of general inflation for families who must buy gasoline for essential driving and who are barely staying afloat. The new gasoline fee is an incredible action on the part of the Administration which claims the highest priority for the fight against inflation. In these terms, the imposition of a new gasoline fee is an attempt to fight inflation by raising prices.

Not only are individual families directly hit by the gasoline fee, but they are hit again indirectly. The fees for all gasoline used commercially are passed through to the ultimate consumers of goods and services. Thus the full amount of the $10.3 billion per year gasoline fee will show up as an addition to the Consumer Price Index.

OCAW is also concerned about the padding of the pass-through of the 10 cent per gallon fee. Besides the 10 cents per gallon starting on May 15, the industry is already passing through crude oil price increases, both OPEC and those taking place under the phased decontrol of domestic crude. It will be the easiest thing in the world to pass through 10 cents plus padding without its being visible to the customers. As is well known, the DOE enforcement staff is too small to deal with the widespread violations that may be expected to occur.

Congressman Benjamin Rosenthal pointed out similar padding of padded pass-throughs of crude oil price increases in the cases of unregulated home heating oil and diesel fuel in a statement issued last January. The padding of pass-throughs enabled refiners' profits to increase more than 700 percent on these two products in a single year. OCAW fears that the pass-throughs of the President's 10 cent fee on gasoline will provide similar opportunities for profiteering.

It is not seen how the mechanism provided in the President's Proclamation is adequate to insure that the 10 cent pass-through is limited to a 10 cent rise in the price of gasoline. Rises in the prices of gasoline may be accompanied by similar rises in the prices of gasoline products such as diesel fuel. It would be very surprising if a 10 cent increase in the prices at the gasoline pumps were not accompanied by a higher price posted at the diesel fuel pump. In fact, what is there to stop it?

OCAW is further concerned that the mechanics of the crude oil import fee plus gasoline fee will encourage the import of gasoline as against the import of crude oil to be refined into gasoline domestically. We note that there is an average delay of 75 days between the payment of the crude oil import fee and the refund of this fee from the gasoline refiners special entitlements fund. The import fee for gasoline, on the other hand, is reimbursed immediately on being passed through to the jobber on first sale.

The President has left Congress with no alternative but a legislative veto, the passage of a resolution denying the Administration authority to carry out the terms of the Proclamation of April 2.

Mr. DOWNEY. Thank you.

By passthrough, do you mean additional administrative costs?

Dr. COLLINS. No, I mean doing exactly what the refining industry did in the case of home heating oil. Over the year from September 1978 to September 1979, besides the passthrough of crude oil cost increases, they passed through an additional amount which had the effect of increasing refinery profits on the home heating oil and on diesel fuel by more than 700 percent in the single year. That is what I mean—uncalled for passthroughs which really are padding.

Mr. DOWNEY. Profiteering?

Dr. COLLINS. Yes, sir.

Mr. DOWNEY. Was it a year ago that your union signed a 3-year wage settlement with refiners and other chemical workers?

Dr. COLLINS. We signed an agreement a year ago last January. This agreement allowed for a reopener on wages. The renegotiations led to a strike, the longest oil strike we had in the history of this union. The amount of money involved there was two-hundredths of 1 percent on products per gallon. The padding of passthroughs on these items was of the order of more than 11 cents.

Mr. DOWNEY. What was the average increase in wages over the 3-year period?

Dr. COLLINS. The average annual increase in wages was 8.9 percent.

Mr. DOWNEY. Thank you, Mr. Collins, for your testimony.

Next we would like to hear from the Independent Gasoline Marketers Council, Jack Blum, and the Independent Operators Association, Fabio Saturni.

Jack, welcome to the committee. Proceed with your statement.

STATEMENT OF JACK A. BLUM, COUNSEL, INDEPENDENT GASOLINE MARKETERS COUNCIL

Mr. **Blum**. I have a prepared statement which I furnished for the record. I would appreciate it if it is made part of the record with its attachments.

Mr. **Downey**. It will be.

Mr. **Blum**. I would like to begin by recalling for the Chair that our organization has consistently supported conservation measures. If you will recall, last spring before the crisis became acute, we came around to Congress, talked to the White House, and said please impose a gasoline sales tax.

We also talked about other conservation measures. I think in large measure our conversations led to the passage of the Emergency Energy Conservation Act and the powers that were given to the President to control the use of gasoline. The issue was taken up, was considered, and Congress gave the President the effective tools. Let me say that if those tools are inadequate, we continue to favor the imposition of a sales tax.

I want to stress to you the differences between a sales tax and this—can only call it hodgepodge—that the administration has dumped upon us. This is not a sales tax. This is a tax on refiners, and it is a tax on refiners measured by the amount of gasoline they manufacture. Some refiners may pass it through, some may not, some may pass it through on gasoline, some may pass it through on other products.

What is more important, some marketers who are now, because of the insane Department of Energy regulatory system, will be totally unable to pass it through to their customers and will have to absorb it and go out of business while the marketers who are favored, will be able to pass it through.

British Petroleum and Sohio are in the situation of having subsidized crude oil from the Alaska North Slope. That subsidized crude oil means they are selling at retail some 20 cents below everybody else on the street. They will be able to recoup the full 10 cents and walk away.

A person who is buying from Ashland at the refinery rack, if Ashland goes up a dime will be faced with the prospect of eating the 10 cents. What we have is a penalty program for selection of marketers.

One other point. Because of the way this is administered, the costs of operating businesses involved, retail and wholesale, go up enormously. In effect, it is an increased product cost. Because of that, you have to borrow money and the cost of carrying your inventory increases substantially. In effect, we pay it up front and get it back from the customer sometime later on.

This cost is going to be terribly burdensome and I think all things considered, that should not have been done to the retail segment.

Now, we have extensive legal objection and we are now as you may know, in Federal Court challenging the program. We have raised our legal objections in the court. We, too, are trying to get the documents to which you referred earlier. The administration, as you may know, has in that court action claimed executive privilege, and we are arguing that issue this afternoon at 2 o'clock.

If you have any questions, I will be pleased to try to answer them.

[The prepared statement and attachments follow. However, the following exhibits have been omitted since they have previously been included as staff background material: (1) Proclamation 4744 dated April 2, 1980, Petroleum Import Adjustment Program; (2) Proclamation 4748, dated April 11, 1980, Technical Amendments to Proclamation 4744; (3) White House Fact Sheet on the Gasoline Conservation Fee Program; and (4) Important Information on Petroleum Import Adjustment Program—Presidential Proclamation 4744.]

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

ON BEHALF OF

INDEPENDENT GASOLINE MARKETERS COUNCIL
1015 Eighteenth Street, N.W.
Washington, D.C. 20036

PETROLEUM IMPORT FEE

Submitted by:

Jack A. Blum
Blum & Nash
1015 Eighteenth Street, N.W.
Washington, D.C. 20036
(202) 857-0220

May 9, 1980

My name is Jack Blum. I am the General Counsel of the Independent Gasoline Marketers Council, a trade association of nonbranded independent retailers of motor gasoline.

By now, you all undoubtedly know that the Council has filed suit in Federal Court seeking a Temporary Restraining Order to block the implementation of the import fee and the related 10¢ a gallon tax. For your information, I have attached a copy of the complaint and the exhibits to my testimony.

The case is pending before Judge Robinson and a hearing on a permanent injunction is scheduled for 9:30 on Monday.

Rather than restate our legal objections to the Presidential proposal, I will explain as briefly as I can our policy problems with the approach that has been taken.

No matter what DOE tells you, this is not a 10¢ tax on motor gasoline. It is a tax on crude oil refiners measured by the amount of gasoline they manufacture. Inasmuch as most refined products other than gasoline have no price controls, the question of which product shall carry the increased cost is a matter left to the refiner. His decision will depend on the nature of his product slate and the demand for each product he manufactures in each market he serves.

Short of recontrolling the entire product slate, DOE cannot guarantee that the impact of the fee will fall on motor gasoline.

The economic wisemen at DOE have argued that the price increases must fall on gasoline because other prices are already as high as they can go on each of the other products.

What DOE has failed to take into account is that as the price of a product rises, the demand curve for that product changes and the complex economic calculations a refiner makes with respect to the composition of his product slate as well as the rate at which he runs his refinery change. Those changes in turn have an impact on the price of all products and move all products to different positions on the demand curve.

To repeat, in plain English, no one can predict the impact of the 10¢ fee on the price of petroleum products.

As independent marketers, we have two concerns with the President's proposal. The first is our ability to increase our retail prices by 10¢ to recapture the 10¢ increase which will be imposed upon us by our refiner/suppliers.

As you all know, there are great disparities in the price of crude oil now run by domestic refiners. Those disparities are manifest in large rack price differences for gasoline among refiners. The spread between the lowest priced supplier and the highest priced supplier at the Doraville, Georgia terminal for the last three months has averaged 19¢ a gallon.

The retailers who purchase the "under priced" product will without question be able to add 10¢ a gallon to their pump price and pass that cost through to their customers. The people who are buying the expensive product and are at the top end of the price spectrum will face the choice of absorbing all of the conservation generated by the 10¢ fee out of their own market share, or eating the increased cost. This is manifestly unfair.

A second concern is the fact that the 10¢ additional cost of product sharply increases the cost of carrying inventory. In the present environment of high interest rates and limited credit availability, these extra costs are large and are virtually impossible for independent marketers to pass through because of the soft market. In some cases, in fact, commercial banks have told independent marketers that their credit lines are extended as far as they can go and there is simply no more money to be borrowed.

The impact of this cost increase will be to encourage distributors and marketers to cut their inventories when, in fact, public policy should encourage large inventories to protect against another major Middle East crisis.

Finally, let me say that we strongly support a sales tax on gasoline, if the Congress, in its wisdom, decides that the various conservation measures of the Emergency Petroleum Conservation Act are inadequate and that the price mechanism must be used.

A direct tax will fall evenly across the country. It will fall on the intended product. It will not create a cash flow problem and it will have an absolutely neutral impact on competition.

One final note is in order. The Constitution, in Article I, Section 7, Clause 1, puts the power to originate taxes in the House of Representatives. The Constitution was responding to a fundamental complaint in the colonies; taxation without representation. The issue is still sensitive.

If you surrender your power to tax, I am afraid that one day someone will ask why we taxpayers are spending $1 billion on the legislature when the President can do the same thing by decree. I am also afraid democratic government will be endangered.

If a gasoline tax is, in fact, the only alternative, stand up and pass it no matter what the heat. If it is not, say no. But don't duck your responsibility and give your power to the President.

If you have any questions, I will be pleased to try to answer them.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

INDEPENDENT GASOLINE MARKETERS
COUNCIL, INC.
1015 Eighteenth Street, N.W.
Washington, D.C. 20036;

HONORABLE ANDREW MAGUIRE, M.C.
United States House of Representatives
Washington, D.C. 20515;

HONORABLE EDWARD J. MARKEY, M.C.
United States House of Representatives
Washington, D.C. 20515;

HONORABLE A. TOBY MOFFETT, M.C.
United States House of Representatives
Washington, D.C. 20515;

HONORABLE W. HENSON MOORE, M.C.
United States House of Representatives
Washington, D.C. 20515;

HONORABLE DAVID A. STOCKMAN, M.C.
United States House of Representatives
Washington, D.C. 20515;

ENERGY ACTION EDUCATIONAL FOUNDATION
1523 L Street, N.W.
Washington, D.C. 20005;

CONSUMER ENERGY COUNCIL OF AMERICA
1990 M Street, N.W.
Washington, D.C. 20036; and

CITIZEN LABOR ENERGY COALITION
600 West Fullerton
Chicago, Illinois 60614;

Plaintiffs,

v.

CHARLES W. DUNCAN, JR., SECRETARY
Department of Energy
Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585;

DEPARTMENT OF ENERGY
Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585;

PHILIP M. KLUTZNICK, SECRETARY
Department of Commerce
14th & Constitution Avenue, N.W.
Washington, D.C. 20230;

ROBINSON, J.

Civil Action No.

80- 1116

MAY 5 1980

DEPARTMENT OF COMMERCE)
14th & Constitution Avenue, N.W.)
Washington, D.C. 20230;)
)
G. WILLIAM MILLER, SECRETARY)
Department of the Treasury)
15th & Pennsylvania Avenue, N.W.)
Washington, D.C. 20220;)
)
DEPARTMENT OF THE TREASURY)
15th & Pennsylvania Avenue, N.W.)
Washington, D.C. 20220; and)
)
AZIE TAYLOR MORTON, TREASURER)
United States of America)
15th & Pennsylvania, Avenue, N.W.)
Washington, D.C. 20220;)
)
Defendants.)
)

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

I.

INTRODUCTION

1. This action is brought by petroleum consumers, marketers, refiners and importers to review, declare invalid and enjoin enforcement of the Petroleum Import Adjustment Program ("PIAP" or "the Program") proclaimed by the President of the United States ("the President") on April 2, 1980 in Proclamation 4744 (45 Fed. Reg. 22864; April 3, 1980), as amended by Proclamation 4748 issued on April 11, 1980 (45 Fed. Reg. 25371; April 15, 1980) and by Proclamation 4751 issued on April 23, 1980 (45 Fed. Reg. 27905; April 25, 1980). 1/

2. More specifically, plaintiffs contend that the PIAP proclaimed in Proclamation 4744:

(a) is unconstitutional in that the PIAP is a revenue-raising measure which did not originate in the United States Congress, in violation of Article I, Section 7, clause 1 of

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1/ Copies of Proclamations 4744, 4748 and 4751 are annexed as Exhibits A, B and C, respectively, and are hereby incorporated by reference into this Complaint. Unless otherwise indicated, all references hereinafter to "Proclamation 4744" shall be deemed to include the amendments set forth in Proclamation 4748 and 4751.

the Constitution; and

(b) is beyond the statutory authority of the President:

(i) under Section 232(b) of the Trade Expansion Act of 1962, as amended ("TEA"), 19 U.S.C. §1862(b), in that (A) the impact of the PIAP on oil imports is impermissibly remote, indirect and uncertain; and (B) the requisite investigation and findings by the Secretary of Commerce ("Commerce Secretary") on the effect on the national security of current levels of oil imports were not performed and made;

(ii) under the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"), 15 U.S.C. §751 et seq., in that the PIAP (A) fails to achieve the Congressional purposes and objectives set forth in Sections 2 and 4(b) of the EPAA, 15 U.S.C. §§751 and 753(b); and (B) purports to amend the Mandatory Petroleum Allocation and Price Regulations (10 CFR, Parts 210, 211 and 212)("Energy Regulations") without meeting the procedural rulemaking requirements of the Administrative Procedure Act, as amended ("APA"), particularly 5 U.S.C. §553, as required in Section 207 of the Economic Stablization Act of 1970, as amended ("ESA"), 12 U.S.C. §1904 (note), which is incorporated by reference in Section 5(a)(1) of the EPAA, 15 U.S.C. §754(a)(1); and

(iii) under the Department of Energy Organization Act, as amended ("DOE Act"), 42 U.S.C. §7101 et seq., in that the Department of Energy ("DOE") has issued orders directing compliance with the PIAP in violation of the rulemaking requirements even more stringent than those of the APA which are set forth in Section 501 of the DOE Act, 42 U.S.C. §7191; and

(c) is arbitrary and capricious and unsupported by substantial evidence in that (A) the burden of the PIAP will not, as purportedly intended, fall entirely upon gasoline, but also will have the more serious consequences on the economy alluded to in the preamble to Proclamation 4744; and (B) the PIAP contravenes the intent of Congress that governmental action to reduce domestic energy consumption be effected when an emergency exists, not through an additional tax such as the PIAP, but rather by implementation of specific programs authorized under the Emergency Energy Conservation Act of 1979 ("EECA"), 42 U.S.C. §8501 (note).

II.

JURISDICTION AND VENUE

3. This action arises under the Constitution and laws of the United States as more particularly described below. The jurisdiction of this Court is invoked under Section 211(a) of the ESA as incorporated in Section 5(a)(1) of the EPAA; under Sections 1331, 1337, 1340, 1361 and 1651 of the United States Judicial Code, 28 U.S.C. §§1331, 1337, 1340, 1361 and 1651; and under the Declaratory Judgment Act, 28 U.S.C. §§2201 and 2202. The matter in controversy exceeds the sum of $10,000, exclusive of interest and costs.

4. Venue of this action is properly within this District by virtue of the provisions of Sections 1391(b) and (e)(1) and (2) of the United States Judicial Code, 28 U.S.C. §§1391(b) and (e)(1) and (2), since the cause of action arose within this District, and the Secretary of Energy, the Secretary of the Treasury, the Secretary of Commerce and the Treasurer of the United States perform their official acts in and are officially residents of the District of Columbia.

III.

PARTIES

5. Plaintiff Independent Gasoline Marketers Council, Inc. ("IGMC") is a membership-based trade association existing under the laws of and with its principal office in the District of Columbia. IGMC brings this action on behalf of its

individual member companies which are, *inter alia*, an importer of foreign crude oil, producers of gasoline in the United States, and branded and nonbranded independent marketers of gasoline and other refined petroleum products with retail outlets in 45 of the 50 states.

6. Plaintiffs Andrew Maguire, representing the 7th District of New Jersey; Edward J. Markey, representing the 7th District of Massachusetts; A. Toby Moffett, representing the 6th District of Connecticut; W. Henson Moore, representing the 6th District of Louisiana; and David A. Stockman, representing the 4th District of Michigan, are each duly elected Members of the United States House of Representatives. Plaintiffs Maguire, Markey, Moffett, Moore and Stockman bring this action as individual consumers of gasoline and other refined petroleum products who will be directly and adversely affected by the PIAP.

7. Plaintiff Energy Action Educational Foundation ("EAEF") is a non-profit research and educational corporation organized under the laws of the District of Columbia. EAEF is supported by private citizens who are taxpayers and consumers of petroleum products. EAEF specializes in the analysis of energy issues affecting its supporters and other similarly situated citizens. EAEF frequently has testified before Congress and has provided its views to defendant DOE and various citizens' groups regarding the matters raised in this action.

8. Plaintiff Consumer Energy Council of America ("CECA"), a non-profit corporation organized under the laws of the District of Columbia, is a broad-based coalition of major national consumer, labor, farm, public power, rural electric cooperative, senior citizen, urban and low-income organizations advocating the consumer's interest in national energy policy.

9. Plaintiff Citizen Labor Energy Coalition ("CLEC") is a non-profit corporation organized under the laws of the District of Columbia with its natural office located in Chicago, Illinois. CLEC has over 200 affiliates, involving trade union, senior, consumer, citizen, environmental, community, religious and minority organizations seeking to promote a national energy policy which meets the needs of the American public.

10. Plaintiffs EAEF, CECA, CLEC and OCAW bring this action on behalf of their respective individual members and supporters who are consumers of gasoline and other refined petroleum products and will be directly and adversely affected by the PIAP.

11. Defendant Charles W. Duncan, Jr., is Secretary of the Department of Energy ("Energy Secretary"), in whom, pursuant to Section 301(a) of the DOE Act, 42 U.S.C. §7151(a), is vested all functions previously vested in the Administrator of the Federal Energy Administration ("FEA") under, _inter alia_, the EPAA. Pursuant to Proclamation 4744, the Energy Secretary has been delegated the authority by the President to (a) provide for the administration and enforcement of the PIAP (Section 3-101(a)), and (b) adjust the so-called "gasoline conservation fee" under the PIAP to insure the resulting value of a so-called "gasoline entitlement" is $4.20 per barrel, or $.10 per gallon of gasoline produced in the United States whether derived from imported or domestic crude oil. (Section 3-101(b)). Proclamation 4744, also directs the Energy Secretary to perform various other functions under the PIAP, including but not limited to the issuance of licenses to import under the PIAP (Section 1-102(a)); the collection of "gasoline conservation fees" and the deposit of such fees into the Treasury of the United States (Section 1-102(b)); the calculation

each month of the so-called "total national fee" (Section 2-101); the issuance each month of "gasoline entitlements" to importers of crude oil subject to the fees required by the PIAP (Section 2-104); the publication of a list each month setting forth the number of "gasoline entitlements" each person must purchase or sell and the issuance of orders directing persons to purchase or sell the required number of "gasoline entitlements" (Section 2-106). According to the preamble to Proclamation 4744, the Energy Secretary advised the President to reduce oil imports by establishing the PIAP.

12. DOE is an agency within the Executive Branch of the federal government created by Section 201 of the DOE Act, 42 U.S.C. §7131, and administered under the supervision and direction of the Energy Secretary.

13. Defendant Philip M. Klutznick is the Commerce Secretary. Pursuant to Section 232(b) of the TEA, prior to January 2, 1980 the Treasury Secretary was required to seek information and advice from and to consult with, *inter alia*, the Commerce Secretary in the course of conducting his investigation on the effect on the national security of imports of foreign articles. Pursuant to Section 5(a)(1)(B) of Reorg. Plan No. 3 of 1979 (44 *Fed. Reg.* 69273; December 3, 1979) and Executive Order No. 12188 (45 *Fed. Reg.* 989; January 4, 1980), all functions vested in the Secretary of the Treasury ("Treasury Secretary") under Section 232 of the TEA were transferred to the Commerce Secretary effective January 2, 1980. According to the preamble to Proclamation 4744, the Commerce Secretary purportedly concurred in the advice of the Energy and Treasury Secretaries that the President take action to reduce oil imports by establishing the PIAP.

14. Defendant Department of Commerce ("Commerce Department") is an agency within the Executive Branch of the federal government which is administered under the supervision and direction of the Commerce Secretary.

15. Defendant G. William Miller is the Treasury Secretary. Pursuant to Section 232(b) of the TEA, prior to January 2, 1980 an appropriate investigation and report by the Treasury Secretary on the effects on the national security of imports of a foreign article was a prerequisite to action by the President to adjust imports of the article. According to the preamble to Proclamation 4744, the Treasury Secretary purportedly provided the President with a report in March 1979 on the effects on the national security of oil imports and advised the President to reduce oil imports by establishing the PIAP.

16. Defendant Department of the Treasury ("Treasury Department") is an agency within the Executive Branch of the federal government which is administered under the supervision and direction of the Treasury Secretary.

17. Defendant Azie Taylor Morton is the Treasurer of the United States ("the Treasurer"). Pursuant to 31 U.S.C. §147, the Treasurer is responsible for overseeing the Treasury of the United States, into the general fund of which the Energy Secretary is directed to make deposits of "gasoline conservation fees" collected in accordance with the PIAP. (See Section 2-102(b).)

18. All individual named-defendants are hereby sued in their official capacities and any successors to their duties or offices are also sued hereunder.

IV.

FACTUAL ALLEGATIONS

19. On March 14, 1980, the President addressed the

nation with regard to historical economic policy and programs purportedly intended to combat inflation. *See* "Text of the President's Address on Economic Policy" (March 14, 1980) ("Economic Address"), a copy of which is appended as Exhibit D and is hereby incorporated by reference into this Complaint.

20. During the course of that address, the President announced, *inter alia*, that he was imposing a "gasoline conservation fee on imported oil" that "will be applied solely to gasoline in an amount equal to about 10 cents a gallon. The fee will not add to the cost of any other oil product." Economic Address at 5. With regard to the "gasoline conservation fee", the President went on to state:

> "*I will submit to Congress a request for a specific gasoline tax which will replace the conservation fee*. The funds from the gasoline conservation charge will be held in reserve or used to reduce the national debt. I do not intend to use these revenues to balance the budget or as a substitute for necessary spending cuts. But *these revenues, which will begin accruing immediately, will give the budget a margin of safety -- ensuring that it remains in balance even if conditions or estimates change*." *Id*. at 6 (emphasis supplied).

21. In connection with the President's Economic Address, on March 14, 1980 the White House Press Secretary also issued a statement ("Press Secretary Statement") providing additional information on the President's Anti-Inflation Program. A copy of the Press Secretary Statement is annexed as Exhibit E and is hereby incorporated by reference into this Complaint.

22. The March 14, 1980 Statement of the Press Secretary summarized that portion of the President's Program purportedly directed at "Greater Energy Conservation" as, in pertinent part, involving:

> "A. . . .
>
> B. Imposition of a gasoline conservation fee on imported oil of $4.62 a barrel, which will be *applied solely to gasoline in an amount equal to about 10 cents a gallon*.
>
> C. Submission to Congress of a motor fuels tax designed to replace the gasoline conservation fee. . . ."

Press Secretary Statement at 2 (emphasis supplied).

23. The March 14, 1980 Press Secretary Statement also went on to provide further details on the President's Program, stating in pertinent part:

> "GASOLINE CONSERVATION FEE
>
> Nature of Fee
>
> The fee will be $4.62 per barrel on imported crude oil. The cost of this fee will be shifted entirely to the production of gasoline. The expected effect of the fee on gasoline prices will be about 10 cents a gallon. Imports of gasoline will also be subject to a charge, equal in amount to the expected average impact of the fee on gasoline of 10 cents a gallon, or $4.20 per barrel.
> *The conservation fee is temporary; the President will submit to the Congress legislation to establish a tax on motor fuels. When that tax is enacted the fee will be removed. Such tax legislation* would have the same favorable effect of reducing petroleum imports but *would eliminate the need for the complex administrative regulations to shift the cost of the import fee to gasoline*.
>
> * * *
>
> *The measure will also increase federal revenues by just over $10 billion annually.*
>
> How the Cost of the Fee will be Shifted from Crude Oil Imports to Gasoline Production
>
> *The entire burden of the crude oil import fee will be shifted from importers to gasoline producers.* This will be accomplished through a mechanism similar to, but separate from, the current Entitlements Program -- a system of payments among refiners designed generally to equalize their crude oil costs.
>
> The mechanism will require importers of crude oil to pay the import fee to the Government. At the same time, the importers will be reimbursed for this expense by gasoline producers, who will be required, for each barrel of gasoline produced (whether from domestic or imported crude oil), to purchase an 'entitlement' to produce gasoline from any firm which imports crude oil. As a result of the entitlement program, refiners and regions that are dependent upon imported oil will not be disproportionately affected by the new import fee.
>
> TAX OF MOTOR FUELS
>
> Determination of Tax Rate
>
> The President will send to Congress legislation establishing a tax on gasoline and diesel motor fuel, starting at 14 cents per gallon. (The present 4 cents a gallon tax would be repealed.) The rate of tax will be adjusted, not

best copy available

> more than quarterly, in accordance with changes in the price indices of producers (refiners) prepared by the Department of Labor.
>
> * * *
>
> *Revenue*
>
> Each 1 cent of the equivalent tax will raise $1.2 billion annually at 1981 income levels.
>
> *Effective Date*
>
> *The new ad valorem equivalent tax on Motor Fuels is to be effective with the ending of the import fee.* Gasoline importers and producers will receive a credit against the new gasoline tax for the import fee or entitlement obligation already paid on gasoline in stock. For diesel fuel, the tax is to be effective the day after the import fee is terminated."

Press Secretary Statement at 7-8 (emphasis partially supplied).

24. Nearly three weeks after his Economic Address, the President issued Proclamation 4744 on April 2, 1980, purportedly establishing the PIAP effective retroactively to crude oil and gasoline imports and domestic gasoline produced on or after March 15, 1980. *See* Exhibit A hereto; *see also* White House Fact Sheet on the Gasoline Conservation Program (April 12, 1980), annexed as Exhibit F and hereby incorporated by reference into this Complaint.

25. In Proclamation 4744, the President made reference to a March 1979 Report by the Treasury Secretary regarding an investigation under Section 232(b) of the TEA, on the effects on the national security of oil imports. Apparently relying upon that March 1979 Report and the advice of the Treasury and Energy Secretaries, concurred in by the Commerce Secretary, the President proclaimed the PIAP.

26. Also on April 2, 1980, the Director of the Office of Oil Imports of DOE and the Manager of the Entitlements Program of DOE's Economic Regulatory Administration ("ERA") each issued a letter addressed "To Whom It May Concern", which purported to explain the filing and payment requirements

imposed by the PIAP. Copies of these letters are annexed as Exhibits G and H, respectively, and hereby incorporated by reference into this Complaint. To plaintiff's best knowledge, no advance public notice or opportunity for written or oral comments were provided prior to distribution of these letters and the required forms appended thereto.

27. On April 11 and April 23, 1980, the President issued Proclamations 4748 and 4751, each of which purports to amend various provisions of the PIAP. See Exhibits B and C hereto.

V.

BURDEN AND INJURY RESULTING FROM PIAP

28. By the government's own reported estimates, implementation of the PIAP will impose an additional tax burden upon the American public equal to $10 billion per year or $27.4 million per day. The PIAP also will increase overall consumer prices in the United States, again by the government's account, by 1/2 to 3/4 of one percentage point. See Exhibits E at 7, and F at 1.

29. By reason of the admittedly complex administrative provisions of the PIAP, once actual or accrued payments required by the Program begin to be passed through on May 15, 1980 in wholesale or retail prices of gasoline and other refined petroleum products, there will be no realistic way in which to identify the PIAP-related portion of such prices or to provide refunds to affected wholesalers, retailers or consumers, such as the plaintiffs hereto. Further, assuming the PIAP has the effect intended, IGMC's members will immediately incur a significant increase in their inventory costs, which will adversely affect their ability to obtain product supplies for their customers and, under present market

conditions they will be unable to recover the entire 10 cents per gallon additional cost. Therefore, plaintiffs will suffer an immediate injury loss and damage for which there is no adequate or speedy remedy at law and this action for injunctive relief is plaintiffs' only means for securing relief.

CLAIM I

Unconsitutiuonal As A Revenue-Raising Measure Which Did Not Originate In Congress

30. The PIAP is an attempt by the President to impose an additional tax of $.10 cents per gallon on gasoline sold in the United States and, thereby, to raise approximately $10 billion per year for the General Treasury Fund in an effort to balance the budget of the federal government. Because it is primarily a revenue-raising measure and it did not originate in a bill passed by the United States Congress, the PIAP contravenes Article I, Section 7, clause 1 of the United States Constitution.

CLAIM II

Beyond Statutory Authority Under Section 232(b) Of The TEA Due To Remote And Uncertain Impact On Oil Imports

31. In Federal Energy Administration v. Algonquin SNG, Inc., 426 U.S. 548 (1976), the Supreme Court recognized the authority of the President under Section 232(b) of the TEA to impose license fees when imports of an article threaten to impair the national security. At the same time, however, the Supreme Court cautioned that its holding "in no way compels the further conclusion that *any* action the President might take [under Section 232(b)], as long as it has even a remote impact on imports, is also so authorized." *Id*. at 571. In this instance, the PIAP has so remote, indirect and uncertain an impact on imports of oil as to exceed the bounds of the President's authority under Section 232(b) of the TEA.

CLAIM III

Beyond Statutory Authority Under Section 232(b) Of The TEA Due To Lack Of Requisite Treasury (Now Commerce) Study On Impact Of Current Levels Of Oil Imports

32. Section 232(b) of the TEA permits the President to adjust the level of imports of foreign articles only after the Treasury (now Commerce) Secretary has performed an appropriate investigation and finds that the article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. Proclamation 4744 establishes the PIAP based upon such a purported finding contained in a Report made by the Treasury Secretary in March 1979. During the past year, oil imports into and gasoline consumption in the United States have declined to levels significantly below those considered in the Treasury Secretary's March 1979 Report. Therefore, the PIAP is beyond the President's statutory authority under Section 232(b) of the TEA because an appropriate investigation and findings by the Treasury (now Commerce) Secretary has not been made with regard to current quantities of and circumstances relating to oil imports into the United States.

CLAIM IV

Beyond Authority Provided In EPAA For Failure To Achieve Statutory Purposes And Objectives

33. The express purposes of the EPAA, as stated by Congress in Section 2 thereof, was to provide the President with specific temporary authority to deal with "shortages" of crude oil, residual fuel oil and refined petroleum products. Section 4(b) also specifies that any action taken pursuant to the EPAA must, to the maximum extent practicable, provide for, inter alia, preservation of the competitive viability of small and independent refiners and marketers, minimization of economic distortion

and unnecessary interference with market mechanisms. At present, no shortages of crude oil, residual fuel oil or refined petroleum products exist in the United States. Further, under current market conditions, the PIAP has a proportionately greater adverse impact on small and independent refiners and marketers than upon major, integrated oil companies, will result in serious economic distortions and is an unnecessary interference with market mechanisms. Accordingly, the PIAP exceeds the limits of the authority provided in the EPAA.

CLAIM V

Beyond Authority Under EPAA For Failure To Comply With Procedural Requirements

34. Section 5(a)(1) of the EPAA incorporates by reference Section 207 of the ESA, which in turn provides, in pertinent part, that the rulemaking requirements of the APA are applicable to all actions taken thereunder. The PIAP purports to amend the Mandatory Petroleum Allocation and Price Regulations -- which are themselves based upon statutory authority provided in the EPAA -- by permitting the passthrough of certain costs incurred in connection with the PIAP. Because the PIAP rests upon authority purportedly accorded under the EPAA but was proclaimed without regard to the applicable APA rulemaking requirements, the PIAP exceeds the limits of the statutory authority provided in the EPAA.

CLAIM VI

Beyond Authority Under DOE Act For Failure To Comply With Procedural Requirements

35. Section 501 of the DOE Act, 42 U.S.C. §7191, imposes rulemaking requirements even more stringent than those of the APA on agency actions taken by DOE. Because the April 2, 1980 letters by the Director of the Office of Oil Imports and the Manager of the Entitlements Program of ERA, *see* Exhibits G

and H hereto, constitute agency actions purporting to implement the PIAP, but were issued without regard to applicable rulemaking requirements, such actions violate the DOE Act.

CLAIM VII

Arbitrary And Capricious Because Burden Of PIAP Will Not Fall Entirely Upon Gasoline

36. According to the preamble to Proclamation 4744, the entire burden of the PIAP is intended to fall on gasoline. In order to avoid more serious consequences to the domestic economy if similar action were taken with respect to other petroleum products, such as home heating oil. See Exhibit A hereto. The PIAP, however, merely permits but does not require that costs incurred under the PIAP be passed through in prices charged for gasoline. Under current market conditions, the burden of the PIAP is likely to fall upon refined petroleum products generally, including but not limited to home heating oil. Therefore, the PIAP is arbitrary and capricious and lacks substantial evidence to support its implementation.

CLAIM VIII

Arbitrary And Capricious For Failure To First Apply Authorized Statutory Programs

37. In November 1979, Congress passed the EECA and thereby provided the President with the authority to implement an array of programs designed to limit consumption of petroleum and petroleum products in the United States, without imposing an additional tax on the American public. Rigorous implementation of the programs authorized in the EECA would produce the results purportedly intended under the PIAP with a significantly less adverse impact on the American public. Accordingly, the PIAP is arbitrary and capricious and lacks substantial evidence to support its implementation.

WHEREFORE, plaintiffs pray for relief as follows:

1. That a final judgment be entered declaring the PIAP

to be void and invalid and of no force or effect;

2. That a temporary restraining order be issued ordering the defendants and all those in active concert and participation with them to refrain immediately from implementing or in any way enforcing the PIAP, until such time as plaintiffs' Motion for a Preliminary Injunction may be heard;

3. That a preliminary injunction be issued ordering the defendants and all those in active concert and participation with them to refrain from implementing or in any way enforcing the PIAP pending the final hearing and determination of this action;

4. That a permanent injunction be issued perpetually suspending, enjoining, annulling and setting aside the PIAP and enjoining the defendants from implementing or in any way enforcing the PIAP;

5. That plaintiffs be awarded their costs incurred in prosecuting this action, including reasonable attorneys' fees; and

6. That plaintiffs have such further relief as this Court may deem just and proper.

Respectfully submitted,

BLUM & NASH

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Counsel for Plaintiffs

Dated: May 5, 1980

VERIFICATION

I, Jack A. Blum, counsel for plaintiffs in the above-matter, being first duly sworn, state that I have read and subscribed to the foregoing Complaint and the facts set forth herein are true and correct to the best of my knowledge and belief.

Jack A. Blum
Jack A. Blum

Subscribed and Sworn to before me on May 5, 1980.

Phyllis L. Zuander
Notary Public

My Commission Expires January 31, 1983

Federal Register
Vol. 45, No. 82
Friday, April 25, 1980

Presidential Documents

Title 3—

The President

Proclamation 4751 of April 23, 1980

Amendment to Proclamation 4744

By the President of the United States of America

A Proclamation

By the authority vested in me as President by the Constitution and the laws of the United States, including Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), and the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 751 *et seq.*), Proclamation 4744, as amended, is hereby amended as follows:

Section 1–101. Section 3–101 of Proclamation 4744, as amended, is amended by redesignating paragraph (c) and (d) and by the addition of a new paragraph (c) to read:

"(c) The Secretary may make such adjustments to the requirements imposed by this Proclamation, as are necessary to prevent special hardship; *provided, however*, that no such adjustments shall be made with respect to the obligation to purchase or sell entitlements imposed by Section 2–1 of this Proclamation or the obligation to pay the gasoline conservation fees required by Section 1–1 of this Proclamation."

IN WITNESS WHEREOF, I have hereunto set my hand on this twenty-third day of April, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-[illegible]
Filed 4-23-80; 4:30 pm]
Billing code [illegible]

EXHIBIT C

EXHIBIT D

EMBARGOED FOR RELEASE
UPON DELIVERY

MARCH 14, 1980.

Office of the White House Press Secretary

THE WHITE HOUSE

TEXT OF THE PRESIDENT'S ADDRESS ON ECONOMIC POLICY

The East Room

Persistent high inflation threatens the economic security of our country.

Since my economic and budget reports in January, rapid changes in world events and economic prospects have made it necessary to intensify our anti-inflation fight.

In the last eight weeks, interest rates have surged to unprecedanted heights and inflation has sharply intensified.

This is a worldwide problem. During the last two reporting months, the increases in the wholesale price index in Japan, Great Britain and Italy have all exceeded an annual rate of 35 percent. Even in West Germany the inflation rate in wholesale prices was 13 percent.

The inflation we face today is deeply rooted. Its many causes have built up over more than a decade. The most important of these causes are soaring world oil prices, declining productivity growth and our failure in government, as individuals, and as a society to live within our means.

Inflation is a symptom of economic distress. The truth is that we have inflation because our economy is not productive enough to do all the things we demand of it. We want it to give us higher incomes, bigger profits and bigger government programs in our favorite area.

The federal government must stop spending money we do not have and borrowing to make up the difference.

Our whole society -- the entire American family -- must try even harder to live within its means. As individuals and as a nation, we must begin to spend money according to what we can afford in the long run -- not according to what we can borrow in the short run.

There are no quick answers to inflation and above all no painless answers. If there were any such solutions, they would have been implemented long ago. We cannot abolish inflation overnight by just passing a law against it. Only a long-term effort -- with the partnership of business and labor, individual citizens and all branches and levels of government -- can succeed in bringing this problem under control.

This dangerous situation calls for urgent measures. We must act firmly and decisively. We must act now. We must remove any doubt about this nation's will to take the painful steps needed to control inflation. We cannot accept high rates of inflation as a permanent fact of life.

The intensive anti-inflation program I am announcing today involves five major components:

- First, discipline by reduction in the federal budget.
- Second, discipline by restraints on credit.
- Third, discipline by wage and price actions.
- Fourth, discipline by greater conservation of energy.
- Fifth, structural changes to encourage productivity, savings, and research and development.

Let me discuss them one by one.

First, the budget.

I will soon set forth a revised budget for fiscal year 1981 -- which begins on October 1 of this year. It will be a balanced budget, and I intend to keep it in balance.

Since the last balanced budget 12 years ago we have added almost one-half trillion dollars to our national debt. In 1981 we will thus achieve an objective that has almost always eluded our country — in good times and bad — a balanced budget.

By the end of this month, I will send to the Congress a major revision in both my 1980 and my 1981 budgets.

I will propose significant reductions of budget authority from the current budget, in order to cut spending this fiscal year and next.

I will cut spending in the 1981 budget by more than $13 billion. To reach that goal, I will:

- Defer, reduce or cancel most of the new or expanded programs that were originally proposed in the 1981 budget.
- Cut expenditures for personnel, operations and maintenance throughout the government.
- Freeze federal civilian employment immediately, and maintain rigid ceilings so that by the end of October of this year we will have 20,000 fewer federal employees.
- Reduce ongoing spending programs throughout the federal government.

I urgently request from the Congress the savings and revenue measures in the budget I submitted in January. I want to stress particularly the legislation needed to hold down hospital costs, to reform federal pay, and to speed up collections of revenue.

When budget cuts demand sacrifices from many Americans, it is intolerable for some to evade prompt payment of taxes. I will send to the Congress legislation to make sure that taxes that are owed on interest and dividends are actually paid, and paid in a timely manner.

I will maintain my commitment to a strong defense and to the level of real growth in defense spending which we pledged to our NATO allies. But the Defense Department will not be immune from budget austerity. In particular, I will require that the Department make savings that do not affect our military readiness. I consider the proposed defense budget adequate to meet our nation's needs. We must maintain budget restraint and fiscal responsibility in all government agencies.

Based on our estimates of economic and budgetary developments, the actions I have described will produce a balanced budget in 1981.

In our system, Congress controls the power of the purse. The recent intense efforts of the Congressional leaders and my close consultation with them have convinced me that the Congress will indeed enact and maintain a balanced budget, as I am recommending. But to ensure that outcome I will use every power at my command:

— As I did last week on a popular bill, I will veto any legislation that exceeds the spending limits consistent with a balanced budget.

— I will use my full powers under the 1974 Budget Reform Act to hold down federal spending, including some expenditures which have previously been authorized.

-- If during the course of the year I judge that these actions and powers are not sufficient, I will ask the Congress for a temporary grant of extraordinary powers to ensure that spending is contained.

Cutting back federal spending to match revenue is not a cure-all — but it is an essential first step. The sources of inflation are far too complex to be treated by a single remedy. But nothing will work until the federal government has demonstrated that it can discipline its own spending and borrowing — not just as a one-year exercise, but as a long-term policy. Together, we will do just that. We will dispel the notion that deficits will always be with us.

I want to be absolutely honest about these budget cuts. We have been cutting out waste and fraud and trimming the bureaucratic fat. But this time, there will also have to be cuts in good, worthwhile programs -- programs which I support very strongly.

In this critical situation we must all look beyond some of our most worthwhile immediate aims to be the overriding permanent needs of the whole nation.

Our second area of action is restraining the growth of credit.

Just as our governments have been borrowing to make ends meet, so have individual Americans. But when we try to beat inflation with borrowed money, we just make the problem worse.

Inflation is fed by credit-financed spending. Consumers have gone into debt too heavily. The savings rate in our nation is now the lowest in more than 25 years. As inflationary expectations have worsened, businesses and other borrowers are tempted to use credit to finance speculative ventures as well as productive activities.

The traditional tools used by the Federal Reserve to control money and credit expansion are a basic part of the fight on inflation. But in present circumstances, those tools need to be reinforced so that effective restraint can be achieved in ways that spread the burden reasonably and fairly.

I am therefore using my power under the Credit Control Act of 1969 to authorize the Federal Reserve to impose new restraints on the growth of credit on a limited and carefully targeted basis. Under this authority the Federal Reserve will:

- -- Establish controls for credit cards and other unsecured loans but not for secured loans on homes, automobiles, and other durable goods.
- -- Restrain credit extensions by commercial banks that are not members of the Federal Reserve System and by certain other money-market lenders.

The Chairman of the Federal Reserve will announce a voluntary program, effective immediately, to restrain excessive growth in loans by larger banks and other lenders. At the same time, the program will encourage the flow of available credit supplies for investment and other productive uses. Special attention will be given to the particular needs of small businesses, farmers, and homebuyers. I support these initiatives by the Federal Reserve.

These carefully targeted actions will not damage the productive capacity of our nation. By helping to curtail excessive uses of credit and dampening inflation, they should -- along with the budgetary measures I announced -- speed prospects for reducing the strains in financial markets.

In addition, I am taking steps to reduce the extension of credit by the federal government. Federal loans and loan guarantees will be cut by nearly $4 billion in fiscal 1981.

As a longer-run measure, I urge Congress to institute the credit budget I proposed in January. It will help us control more effectively the loans and loan guarantees provided by the federal government.

Our third area of action is the voluntary wage and price standards.

I do not have authority to impose controls. I do not seek that authority. We will not impose mandatory wage and price controls. Government wage and price controls have never worked in peacetime. They create unfair economic distortions and hurt productivity. These results always force price controls first to be eased and then dismantled -- while inflation roars ahead.

Controls create inequities -- and the greatest inequity is their effect on the average family. As even the most ardent advocates of mandatory controls concede, the cost of vital necessities such as food and fuel would be passed on to those living on frozen wages and fixed incomes.

We cannot outlaw inflation with a massive federal bureaucracy, or wish it away with magic formulas.

On the other hand, voluntary wage and price standards offer the flexibility we need to deal with our complex economy.

The Council on Wage and Price Stability has just issued revised pay standards and confirmed an extension of the price standards.

The new pay standards were developed from the recommendation of a Tri-Partite Advisory Committee, with members from business, labor and the public. The Committee unanimously recommended standards for pay increases in the range of 7-1/2 to 9-1/2 percent, and stated that under normal circumstances increases should average 8-1/2 percent. I am determined to meet that goal.

In the fact of last year's 13 percent increase in the consumer price index, and the even higher rate of recent months, this unanimous recommendation of the Pay Advisory Committee -- designed to produce an average wage and salary increase of 8-1/2 percent -- reflects a commendable spirit of restraint and cooperation. With business, labor and public support, we can meet this goal of restraint.

I am sharply expanding the price and wage monitoring activities of the Council on Wage and Price Stability. Its current staff of 80 people will be more than tripled. The Council will establish teams of experts to track wage and price developments in each major industry. The Council will meet with leaders from specific industries to secure their cooperation. Where necessary, we will ask large firms for pre-notification of significant price increases. We will investigate wage and price increases that seem out of line with the standards. I mean to apply those standards with vigor and toughness to both business and labor.

Our fourth area of action is energy.

The plain truth is that we will never be completely strong at home or secure abroad until we have at last solved our nation's excessive dependence on foreign oil.

The price of imported oil has more than doubled in the last 12 months. Last year's increase alone was greater than all other increases combined since the oil embargo of 1973.

We must forge ahead toward the goal I set last July -- cutting in half the amount of oil we import by 1990. To do this will require increased production of domestic oil, natural gas and coal -- unrelenting efforts for conservation -- and the rapid development of alternative energy sources.

For three years I have fought for a national energy policy to achieve each of these goals. Today, at long last, we are close to enacting such a policy into law. We must not falter now.

I am asking the Congress to finish without delay the three essential pieces of the energy program -- the Windfall Profits Tax, the Energy Security Corporation, and the Energy Mobilization Board. These bills are cornerstones for our energy security, our national security, and our fight against inflation.

I have recently submitted a proposal to.Congress to conserve energy in electric power plants and to convert them from oil to coal and other fuels. This too must be passed promptly.

But we can never solve our energy dependence unless we meet the problem of extravagant gasoline use.

Gasoline is the most important and most wasted petroleum product in the United States. It accounts for some 40 percent of all the petroleum we use. In almost every other industrial country, the average amount of gasoline used by each citizen is much lower than ours, and the average price is much higher. Americans have done well in the past year in gasoline conservation. But if we are going to reduce further our dependence on foreign oil, we must do more.

Therefore, I am exercising my Presidential authority to impose a gasoline conservation fee on imported oil. This will be applied solely to gasoline in an amount equal to about 10 cents a gallon. The fee will not add to the cost of any other oil product. It will not add to oil company profits. It should reduce imports by 100,000 barrels a day by the end of a year, and later by as much as 250,000 barrels per day.

I will submit to Congress a request for a specific gasoline tax which will replace the conservation fee.

The funds from the gasoline conservation charge will be held in reserve or used to reduce the national debt. I do not intend to use these revenues to balance the budget or as a substitute for necessary spending cuts. But these revenues, which will begin accruing immediately, will give the budget a margin of safety -- ensuring that it remains in balance even if conditions or estimates change.

We can now set new targets for gasoline consumption nationwide Which will reduce consumption by 400,000 barrels per day.

This action also underscores a commitment to greater conservation that our friends abroad -- both producing and consuming nations -- can join and support.

Finally, the Secretary of Energy is pursuing an intensified national energy conservation plan. Our aim is to involve every level of government, business, labor -- in fact, every single citizen -- in conserving American energy.

Our fifth area of action involves long-term structural changes to encourage productivity, savings, and research and development.

We have already begun to make progress in reforming government regulations which interfere with these goals. Since taking office, I have worked to root out unnecessary government regulations and to make cost-effective those which are necessary. I urge the Congress to pass the Regulatory Reform Act, which will strengthen our efforts.

As much as possible, we need to let the private enterprise system be free to compete. We have succeeded in deregulating airlines. I urge the Congress to speed passage of comprehensive bills to cut regulation of banking, trucking, railroads and communications.

We must also encourage savings. The single most important way we can do that is to phase out the ceilings that limit the return most small savers can earn. A financial institutions reform bill which makes this change has just been approved by a House-Senate Conference Committee. I urge its quick passage.

We must face the fact that over the last 10 years the pace of productivity growth in our country slowed sharply. Last year it actually declined.

This trend is an important long-term factor in inflation. It must be reversed.

I am asking my Presidential Commission on an Agenda for the 1980s as part of their work to develop specific recommendations for revitalizing our economy.

Our priority now is to balance the budget. But once these spending limitations have actually been achieved, we can then provide tax relief to encourage investment. Through fiscal discipline today, we can free up resources tomorrow for the productivity improving tax reductions our nation needs.

This discipline will not be easy. Our new budgets will be very tight. There are some things we cannot afford -- at least not now. But the most important thing we cannot afford is the national delusion we have been harboring about inflation. We cannot afford the fairy tale that inflation can be passed on to the next person -- or to the next generation.

The actions I have outlined involve costs. They involve pain. But the cost of acting is far less than the cost of not acting. The temporary pain of sacrifice and discipline is far less -- for all of us together -- than the still worse permanent pain of rising inflation. For all of us, but especially for the most needy, inflation is indeed the most cruel tax of all.

If we take these necessary steps against inflation, it will not result in a quick victory. Over the next several months, inflation is likely to continue at a high level. We must be patient and persistent.

I am confident that with the steps I am proposing today, the inflation rate will be declining later this year. As that happens, we may look forward to calmer financial markets and lower interest rates.

By taking control of this problem -- which involves taking control of ourselves -- we can put an end to the fear about the future that afflicts so many of our people and institutions.

In the fight against inflation, what is at stake is more than material wealth or material comfort. What is at stake is whether or not we Americans -- as a nation, as a people -- will control our own destiny.

In crises abroad, we have always shown our ability to respond with steadfastness and courage. We must now show the same determination in meeting the challenge of inflation.

With inflation, as with defense and energy, our responsibility is clear:

- to face the world as it is, and to be honest about the hard decisions that are necessary;
- to make those decisions and to carry them out; and
- to build together a strong and secure and hopeful future for every American.

With proper discipline we will prevail in our fight against inflation.

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EMBARGOED FOR RELEASE ON DELIVERY
OF THE PRESIDENT'S SPEECH

EXHIBIT E

MARCH 14, 1980

Office of the White House Press Secretary

THE WHITE HOUSE

ANTI-INFLATION PROGRAM

The President's anti-inflation program announced on March 14, 1980 involves five major parts:

(1) Increased Discipline in the Federal Budget
(2) Restraints on Credit
(3) Wage and Price Actions
(4) Greater Energy Conservation
(5) Economic Structural Changes to encourage productivity, savings, research and development.

Increased Discipline in the Federal Budget

In light of recent increases in the rate of inflation, the President has decided that it is necessary to balance the budget in FY 1981.

The FY 1981 balanced budget is achieved through:

--deferral, reduction or cancellation of most of the new or expanded programs originally proposed in FY '81 budget;
--a cut in expenditures for personnel, operations, and maintenance throughout the government;
--an immediate freeze in Federal civilian employment, and rigid maintenance of employment ceilings to ensure that there will be 20,000 fewer Federal employees by the end of 1980 than there are now;
--a reduction in ongoing spending programs throughout the Federal government;
--placing on an urgent basis the need to pass the savings and revenue measures submitted in the January budget, including hospital cost containment, Federal pay reform and cash management reforms;
--legislation to be sent to Congress authorizing withholding of interest and dividend payments in order to ensure that Federal income taxes owed on those interest and dividend payements are in fact paid;
--requiring the Defense Department, through efficiencies and savings that do not affect military readiness, to offset a large part of the cost increases the Department now faces;
--a commitment to veto any legislation that exceeds the spending limits consistent with a balanced budget;
--commitment to use the powers under the Budget Reform Act of 1974 available to the President to defer or rescind Federal spending;
--a willingness to seek from the Congress, if adequate steps are not being taken to achieve a balanced budget, a temporary grant of extraordinary powers.

Restraints on Credit

A. The President is using power granted him under the Credit Control Act of 1969 to authorize the Federal Reserve to impose new restraints on the growth of credit on a limited and targeted basis:
--Controls will be authorized for consumer loans other than those for homes, automobiles and other durable goods;
--Authority will be authorized to restrain credit extensions by commercial banks which are not members of the Federal Reserve System and by certain other money market lenders.

B. The Federal Reserve will announce a voluntary program, effective immediately, to restrain excessive growth in loans by large banks and other lenders.

C. Federal loans and loan guarantees will be cut by $4 Billion in Fiscal 1981.

D. The President renewed his commitment to seek Congressional passage of a credit budget to enable the Federal government to control the loans and loan guarantees it provides more effectively.

Wage and Price Actions

A. Reaffirmed absolute opposition to wage and price controls.

B. Acceptance of pay standard recommendations of the Pay Advisory Committee -- standards which permit pay increases in the range of 7.5 to 9.5 per cent, with an average under normal conditions of 8.5 per cent; large firms with settlements over the 8.5 per cent midpoint will be asked to report to the Council on Wage and Price Stability (COWPS) with supporting information.

C. Continuation of the price standard established in final form by COWPS on November 1, 1979.

D. Lowering of the threshold for regular, formal reporting of price change information to COWPS from companies with $250 million or more in sales to those with $100 million or more in sales.

E. Selective prenotification of price increases by large firms, on a voluntary basis.

F. Increased COWPS staff to expand monitoring effort.

Greater Energy Conservation

A. Renewed appeal to the Congress to complete work on the Windfall Profits Tax, the Energy Security Corporation, and the Energy Mobilization Board and to take prompt action on the recently proposed coal conversion legislation.

B. Imposition of a gasoline conservation fee on imported oil of $4.62 a barrel, which will be applied solely to gasoline in an amount equal to about 10 cents a gallon.

C. Submission to Congress of a motor fuels tax designed to replace the gasoline conservation fee.

D. Establishment of new targets for nationwide gasoline consumption at a maximum of 7 million barrels per day, or a 5.5 per cent decrease from 1979 level.

E. Development of intensified national energy conservation plan by the Secretary of Energy.

Long-Term Economic Structural Changes

A. Renewed appeal to Congress to enact the Regulatory Reform Act and comprehensive legislation to deregulate the banking, trucking, railroad and communcations industries.

B. Renewed appeal to Congress to enact the Financial Institutions Reform Act, which will gradually lift the ceilings that limit the return most small savers can earn.

C. A request that the Presidential Commission for a National Agenda for the Eighties develop specific recommendations for revitalizing our economy's productivity.

D. Statement of intention to propose tax measures to spur productivity once the task of balancing the budget and assuring overall fiscal discipline is achieved.

More detail on the following items of the President's program is set forth below:

(1) Overview of the Inflation Situation
(2) Budgetary Actions/Hiring Limitation
(3) Pay and Price Standards
(4) Gasoline Conservation Fee
(5) Motor Fuels Tax
(6) State Gasoline Targets
(7) Withholding of Interest and Dividends

More detailed information on credit restraints will be set forth in a separate release provided by the Federal Reserve.

OVERVIEW OF THE INFLATION SITUATION

We have just come out of a decade of economic turmoil; a decade which saw

-- a tenfold increase in the price of oil,
-- a twenty-fold increase in the U.S. oil import bill,
-- the deepest recession in 40 years,
-- inflation which averaged eight per cent over the whole decade, and
-- a sharp slowdown in productivity growth.

Thus as we enter the 1980's, economic policy has to concentrate on three major priorities:

(1) reducing inflation,
(2) adjusting to a world of sharply higher energy prices and reducing our vulnerability to OPEC price and supply decisions,and
(3) improving the efficiency and productivity of our economy.

In recent weeks this first priority has become even more important. Citizens across the country have become worried that our economy is out of control. This worry affects their expectations about inflation and thus their behavior.

There are real causes for concern.

-- The early months of 1980 have seen another explosion in energy prices and the passthrough of increased energy costs in other goods, and a wholesale price index rising at an annual rate of 20 per cent;

-- Interest rates are skyrocketing; and

-- The bond market is in disarry.

Strong and decisive action is necessary to turn the tide around. We cannot let a continued worsening of inflationary expectations and an erosion of confidence undermine a basically sound economy.

What caused this worsening of inflationary expectations? A number of things:

Our economy has shown greater strength than expected. The widely-expected recession has not materialized.

-- Retail sales have remained strong as consumers continued to hold down their savings rate to spend;
-- Employment is still up and the unemployment rate is steady at roughly six per cent;
-- Restraint in financial markets has not bit deeply except in housing;
-- Strong markets have made it easier for businesses to raise prices.

Inflation has accelerated sharply.

-- In January and February the Producer's Price Index increased at an annual rate of about 20 per cent;
-- In January the CPI increased at the rate of 1.4 per cent (an annual rate of 18 per cent),
-- These dramatic increases come from another round of energy price increases (7.5 per cent in February alone), from the passthrough of energy price increases into the prices of goods made with and transported with energy, and from the passthrough of other costs swallowed last year.

Misinterpretation of the budget.

-- The increase in nominal expenditures for FY 1980 between January 1979 and January 1980 was a result of inflation -- but it was perceived by some as backing away from the commitment to fiscal restraint;

- -- The $16 billion deficit in the 1981 budget was not widely recognized as being a result of the administration's forecast of a weak economy. (With a six per cent unemployment rate, the budget proposed in January would be in surplus.)
- -- Concerns about a defense boom.

And, finally, concern about the growth of money supply and business loans.

BUDGETARY ACTIONS

Throughout his administration, the President has emphasized the need for fiscal restraint. Given the recent increases in our nation's rate of inflation, he has determined that a balanced budget in FY 1981 is imperative.

To implement this decision, the President will place before the Congress a package of substantial expenditure cuts in almost every major program area not vital to national security. These cuts are real, and have been allocated fairly. The President recognizes the sacrifice he will be asking people to make through these reductions. However, he has decided that balancing the budget now is a major step toward restoring confidence in our economy.

Budget Totals

When submitted in January, the FY 1981 budget had a projected deficit of about $16 billion. Since January, changes in the economic outlook and technical revisions have combined to raise both outlays and revenues for FY 1981, narrowing the FY 1981 deficit by a small amount (about $2.3 billion).

The President's proposed expenditure cuts will bring the budget to balance. Beyond that, the imposition of a measure to reduce gasoline consumption and oil imports, and the proposal to apply withholding to existing taxes on interest and dividends (a measure to reduce tax evasion) will together generate new revenues of about $14 billion, providing an overall surplus for the budget.

The budget estimates are as follows:

	1980	1981
I. OUTLAYS (in billions)		
January Budget	564	616
plus: revisions	6	9 to 10
less: budget cuts	-2	-13 to -14
equals: Revised Outlays	568 to 569	611 to 613
II. REVENUES (in billions)		
January Budget	524	600
plus: revisions	5	11 to 12
Withholding on Interest and Dividends	0	3
Contingency Allowance (Revenues from gasoline conservation fee)	(3)	(10)
equals: Revised Revenues	529	614 to 615
(including contingency allowance)	(532)	(624 to 625)
III. DEFICIT (-) OR SURPLUS (+) (in billions)		
January budget	-40	-16
Revised estimate	-39 to -40	0 to +3
(Contingency Allowance)	(+3)	(+10)
Revised Estimate After Contingency	(-36 to -37)	(+10 to +13)

Proposed Spending Cuts

The President will propose reductions in virtually every area of the budget to eliminate the deficit in FY 1981. He will defer less essential spending. He will rescind budget authority in 1980. He will propose reductions in appropriations for the FY 1981 budget. He will seek legislative reforms lowering expenditures. The President intends to use fully the authorities he has at hand to achieve budget balance.

These recommendations are the product of an unprecedented joint effort with the Congress. The President's senior advisors and members of Congress have identified and reviewed the actions which are necessary to balance the 1981 budget. There is substantial agreement concerning specific reductions in major programs and in the general pattern of reductions in other areas.

Both the Administration and the Congress intend to work closely together to see these proposals enacted.

Reductions in New Initiatives

The President has decided to eliminate, reduce or postpone many of his new initiatives. Among those initiatives affected are:

	Outlay Reductions 1981 (in millions)
New EDA development financing program (DOC)	212
Solar and Conservation Bank (HUD)	76
Territorial Tax Matching (DOI)	22
The State Share of General Revenue Sharing(Treasury)	1,700
Welfare Reform Initiatives (DOL, HHS)	859
Mass Transit Capital Grants (July energy program)	265

The budgetary proposals will also include substantial cuts in numerous on-going programs virtually across the government. Selected examples are:

Operating and administrative expenses (all agencies)
Water and sewer grants and loans (USDA)
Agricultural Conservation Program (USDA)
Foreign Aid (AID, Treasury)
Coastal Energy Impact Fund (DOC)
Water project construction (Corps of Engineers, USDA)
Energy Impact Assistance (DOE)
Mental Health and Alcohol Services (HHS)
Health Services Grants (HHS)
Rehabilitation Loan Program (HUD)
Land and Water Conservation Fund (DOI)
Urban Park Grants (DOI)
LEAA (DOJ)
Welfare Reform Demonstration Project (DOL)
Public Service Employment (State)
UN Voluntary Contribution (State)
Coast Guard facilities (DOT)
Airport programs (DOT)
Highway construction (DOT)
Waste Treatment Construction Grants (EPA)
Facilities construction (NASA)
Space Science (NASA)
Facilities construction (VA)
Export Loans (ExIm Bank)
Business Loan and Investment Fund (SBA)
Applied Research (NSF)

The details concerning reductions in these and other federal programs will be made public along with the budget revisions at the end of this month.

Executive Branch Hiring Limitation

The limitation on Executive Branch hiring will take effect immediately and its duration is indefinite.

Agencies are restricted in filling full-time permanent positions to no more than 50 per cent of vacancies that occur after February 29, 1980. Vacancies that existed prior to that date may be filled, but only by using the allowed 50 per cent of vacancies occurring after February 29.

For purposes of illustration, a 50 per cent hiring limitation will result in a reduction of 6,500 full-time permanent positions per month. Over a 90-day period, this would mean that about 19,500 vacancies would not be filled, producing savings of up to $57 million.

PAY AND PRICE STANDARDS

Pay Standard for Second Program Year

The Pay Advisory Committee's recommendation for a 7.5 per cent to 9.5 per cent range of permissible increase has been adopted as the second year pay standard under the voluntary program.

Although the Administration has adopted a range rather than a single standard, it is expected, nonetheless, that wage settlements nationwide will average about the midpoint of the range, 8.5 per cent.

All businesses with more than 1,000 employees that settle on pay increases above 8.5 per cent will be asked to report such settlements to the Council on Wage and Price Stability, along with supporting statistical information.

The Pay Advisory Committee's recommendation for a second year 7.5 per cent Cost of Living Adjustment evaluation has been adopted.

Price Standard for Second Program Year

The price standard for the second program year issued in final form by the Council on Wage and Price Stability on November 1, 1979, will be continued.

Intensified and Expanded Pay and Price Monitoring

The threshold for regular (quarterly), formal reporting of price change information to the Council on Wage and Price Stability will be lowered from companies with $250 million or greater in annual sales to companies with $100 million or greater in annual sales. This will more than double the number of business firms intensively monitored by CWPS (from about 1200 to about 2500).

Pre-notification of price changes will be selective -- where it appears to be needed and makes sense. There will be no standard requirement for pre-notification by all businesses that are affected by the regular reporting requirement.

Expansion of the Council on Wage and Price Stability

The staff capability of the Council on Wage and Price Stability will be more than doubled to administer the intensified program. Most of the added people will support price and pay monitoring activity. Audit capability will be added. Price monitoring will be greatly strengthened. Initial review time will be reduced; CWPS will evaluate exceptions requests faster and reduce decision time.

GASOLINE CONSERVATION FEE

Nature of Fee

The fee will be $4.62 per barrel on imported crude oil. The cost of this fee will be shifted entirely to the production of gasoline. The expected effect of the fee on gasoline prices will be about 10 cents a gallon. Imports of gasoline will also be subject to a charge, equal in amount to the expected average impact of the fee on gasoline of 10 cents a gallon, or $4.20 per barrel.

The conservation fee is temporary; the President will submit to the Congress legislation to establish a tax on motor fuels. When that tax is enacted the fee will be removed. Such tax legislation would have the same favorable effect of reducing petroleum imports but would eliminate the need for the complex administrative regulations to shift the cost of the import fee to gasoline.

The fee is effective for gasoline produced or imported and crude oil imported after 12:01 a.m., March 15, 1980. A Presidential Proclamation providing the framework for the detailed mechanisms of the plan will be issued in the next few days, effective March 15, 1980.

These actions are taken under authority of Section 232(b) of the Trade Expansion Act, and of the Emergency Petroleum Allocation Act (EPAA). The Trade Expansion Act gives the President authority to take action to adjust levels of imports that threaten national security. Such adjustments can be made through the imposition of an import fee, and the establishment of a program to shift the fee to gasoline. The EPAA provides the President with authority to impose price and allocation controls on crude oil and refined products.

In accordance with the Trade Expansion Act, the Secretary of the Treasury conducted an investigation last year into the Nation's dependence on oil imports and concluded that the levels of such imports threaten national security.

Shifting the entire cost of the fee to gasoline will focus the fee on the product which provides the greatest conservation potential without unduly affecting the economy. The expected effect of the conservation fee followed by the motor fuels tax, is to reduce gasoline and diesel consumption and imports by approximately 100,000 barrels a day by the end of the first year, and up to 250,000 barrels by the end of the third year.

The fee will raise the price of gasoline by about 10 cents per gallon, effective May 15, 1980. The direct effect of this increase will raise overall consumer prices by about 1/2 percentage point. The majority of this increase will be reflected in the CPI during May and June. Over the following year additional (but much smaller) indirect effects will be felt elsewhere in the economy, as gasoline costs are passed on. In total, these direct and indirect effects will increase the CPI by about 3/4 of one percentage point.

There are certain offsetting factors, however. To the extent we can reduce our appetite for imported oil and bring supply and demand into balance, pressure on OPEC to raise prices will decrease. This fee will not only produce additional demand restraint, it demonstrates the willingness of the United States to make sacrifices to curtail gasoline use. This is an important element in securing the international cooperation that is vital if we are truly to bring the oil price explosion under control.

The program will not cause the price of uncontrolled domestic crude oil to rise, since the entitlements program will shift the entire fee to gasoline producers and reimburse crude oil importers to the extent that they do not produce gasoline.

The measure will also increase federal revenues by just over $10 billion annually.

How the Cost of the Fee Will be Shifted from Crude Oil Imports to Gasoline Production

The entire burden of the crude oil import fee will be shifted from importers to gasoline producers. This will be accomplished through a mechanism similar to, but separate from, the current Entitlements Program -- a system of payments among refiners designed generally to equalize their crude oil costs.

The mechanism will require importers of crude oil to pay the import fee to the Government. At the same time, however, the importers will be reimbursed for this expense by gasoline producers, who will be required, for each barrel of gasoline produced (whether from domestic or imported crude oil), to purchase an "entitlement" to produce gasoline from any firm which imports crude oil. As a result of the entitlement program, refiners and regions that are dependent upon imported oil will not be disproportionately affected by the new import fee.

TAX ON MOTOR FUELS

Determination of Tax Rate

The President will send to Congress legislation establishing a tax on gasoline and diesel motor fuel, starting at 14 cents per gallon. (The present 4 cents a gallon tax would be repealed.) The rate of tax will be adjusted, not more than quarterly, in accordance with changes in the price indices of producers (refiners) prepared by the Department of Labor.

In that way, the tax will be the equivalent of an *ad valorem* tax at a constant fixed percentage of producers' average selling prices. The indices will be those for refiners' sales of gasoline and diesel motor fuel to commercial consumers. The gasoline index used will be that for unleaded fuel. Changes in the tax rate will be announced by the Treasury Department. No changes will be made unless the change in an index will result in a tax change of at least one half cent a gallon.

Payment of Taxes

The new taxes will be paid by those who now must pay the 4 cents per gallon tax on gasoline and diesel fuel.

Exemptions, Credits, and Refunds

Many of the existing exemptions, such as for sales to State and local governments, will be retained. In other cases, the magnitude of the exemption, credit, or refund will not be less than under present law.

Floor Stocks Taxes and Refunds

Tax increases or decreases will not be collected or paid on tax-paid products in inventory at the time of change.

Highway Trust Funds

Revenues from the new taxes will be transferred to the Highway Trust Fund in amounts not less than the equivalent of the revenues from a tax of 4 cents a gallon on gasoline and diesel fuel.

Revenue

Each 1 cent of the equivalent tax will raise $1.2 billion annually at 1981 income levels.

Effective Date

The new *ad valorem* equivalent tax on Motor Fuels is to be effective with the ending of the import fee. Gasoline importers and producers will receive a credit against the new gasoline tax for the import fee or entitlement obligation already paid on gasoline in stock. For diesel fuel, the tax is to be effective the day after the import fee is terminated.

STATE GASOLINE TARGETS

The National Target

The annual national gasoline conservation target will be set at 7.0 million barrels per day, measured according to the Federal Highway Administration (FHWA) data series. These data measure gasoline sales in individual states throughout the nation.

This target is about 5½ per cent below average daily consumption for 1979. Individual states' targets, based on the national target, are being set for the second quarter of 1980. Next week, letters will be sent to the states specifying second quarter targets.

Consultations with the States on Methodology

During the last few weeks, the Department of Energy (DOE) has reviewed a revised methodology for setting individual states' voluntary gasoline conservation targets with officials from the states, Puerto Rico, and the District of Columbia. The comments received indicate the methodology to be basically sound, although DOE will continue to evaluate the revised formula.

The new methodology uses a sum of 12 months of state gasoline sales data -- rather than monthly gasoline tax data used in developing state targets for the first quarter of 1980. Monthly shares are then computed based on prior consumption and prior conservation efforts, and take into account recommendations submitted by state officials for allocating the annual allotment as monthly shares.

The new method of calculating targets is more realistic because monthly data were found to have several reporting variations. It also gives additional weight to the recent lower gasoline consumption which has occurred because of conservation and economic factors.

Monthly Energy Review (EIA) Data Compared to FHWA Data

Two different data series have been used to measure gasoline consumption. The two series are DOE's Monthly Energy Review (MER) and the Federal Highway Administration (FHWA) data series. The FHWA data, because of the inclusion of gasoline which is not imported or produced at domestic refineries, but comes rather from secondary sources, are about 350,000 barrels per day higher than MER data.

For 1979 DOE's MER data reported national gasoline use ("product supplied") at 7.039 million b/d. The corresponding figure reported by FHWA is 7.4 million b/d. Because only the FHWA data system provides information on a state-by-state basis, the national target of 7.0 million b/d is set in terms of FHWA statistics. This national target would likely correspond to an MER "product supplied" figure for 1980 of 6.65 million b/d.

Average Gasoline Consumption in the Last Five Years

	FHWA Data (Approximate) (million b/d)	Monthly Energy Review Data (million b/d)
1975	6.81	6.68
1976	7.13	6.98
1977	7.37	7.18
1978	7.63	7.41
1979	7.40*	7.03

*estimated

Mandatory Targets

It is expected that the target set by the President today will be achieved through voluntary compliance efforts by the States. In his State of the Union address, the President said, "After consultation with the governors, we will set gasoline conservation goals for each of the 50 states, and I will make them mandatory if these goals are not met."

The President has authority to make the targets mandatory pursuant to Section 211 of the Emergency Energy Conservation Act of 1979 (Public Law 96-102, 93 Stat 749(1979)) whenever he finds, with respect to the energy source involved, that "a severe supply interruption exists or is imminent." This criterion is defined in Section 202 of the Act, which in effect empowers the President not only to determine the existence of an interruption, but to act in anticipation of a potential interruption.

If the targets were made mandatory, the States would be required to submit emergency conservation plans within 45 days. If no such plan were submitted, or if disapproved, or if the plan fails substantially to meet the conservation target within a reasonable period of time (but not less than 90 days) and the required statutory shortfall exists or is expected, a standby Federal conservation plan may be ordered implemented in the State.

The standby Federal conservation plan was published in the Federal Register on February 7, 1980, and is currently the subject of public hearings. The comment period ends on April 7, 1980, and a final plan will be issued thereafter.

WITHHOLDING ON INTEREST AND DIVIDENDS

Currently no tax is withheld on payments of interest and dividends to domestic taxpayers, although taxes are withheld from wage recipients. Payors of certain categories of interest and dividends are required to report to the IRS and the recipients the amount of interest and dividends paid.

The President will propose legislation to change the current payment practice. Under the legislation, payors who now report taxable interest and dividends to both IRS and recipients would be required to withhold 15 per cent of such payments. Individuals who reasonably believe they will owe no tax, and exempt organizations, would not be subject to withholding if they file exemption certificates with the interest or dividend payor. This system of reporting and withholding would be extended to interest on other taxable instruments where practical.

A recent IRS report estimated that between $5.4 and $9.4 billion of additional interest income and between $2.1 and $4.7 billion of additional dividend income should have been reported on individual income tax returns in 1976. While only 2-3 per cent of wages and salaries went unreported, the comparable figure for interest and dividends was 9-16 per cent. The use of information documents and audit procedures cannot by themselves effectively close this reporting gap because of the difficulty of following up on millions of interest and dividend transactions.

Withholding at a 15 per cent rate will not result in undue hardship because the lowest rate bracket at present is 14 per cent. Thus, few individuals would be deprived of the use of over-withheld funds until they receive a refund of tax. In addition, under the proposal, persons who reasonably believe they will owe no tax may file exemption certificates and avoid withholding altogether.

Withholding would increase tax collections by $2.5 billion or more per year beginning in fiscal 1981. Practically all this revenue comes from increased compliance, except in the first year, in which much of this increased revenue would come from the acceleration of payments.

Change in Revenue
($ billion)

Fiscal year	Increased compliance	Change in Timing	Total
1981	1.0	2.4	3.4
1982	2.2	0.3	2.5
1983	2.5	0.3	2.8

* * *

Mr. DOWNEY. Thank you, Jack.
Mr. Saturni.

STATEMENT OF FABIO SATURNI, COUNSEL, INDEPENDENT TERMINAL OPERATORS ASSOCIATION

Mr. SATURNI. Thank you, Mr. Chairman.

My name is Fabio Saturni, and I am with the law firm of Batzell, Nunn & Bode. I am presenting these comments today on behalf of the Independent Terminal Operators Association.

The Independent Terminal Operators Association is a nonprofit trade association representing firms which principally own and operate inland waterway terminals. ITOA members receive motor gasoline and other petroleum products, including No. 2 fuel oil and residual fuel oil, in barge or pipeline tender quantities. Functioning as nonbranded independent marketers, ITOA members distribute those products from their bulk storage facilities in over 40 States.

As large volume purchasers and distributors of motor gasoline at both the wholesale and retail level, members of ITOA are directly affected by the recently adopted "gasoline conservation fee," as it is euphemistically called.

ITOA supports in principle the imposition of import fees as a means to reduce the level of U.S. imports of crude oil and gasoline. We are aware that the import and gasoline conservation fees recently adopted have been challenged on legal grounds, and we express no opinion at this time as to the merits of those challenges. As a policy thrust, however, we do not argue with the concept of conservation fees. Such fees hopefully will promote and encourage conservation. Reducing national energy consumption is, and must continue to be, the primary objective of our comprehensive energy policy.

ITOA does have concern, however, with regard to the impact of the fee upon smaller independent marketers. Independents will be placed at a competitive disadvantage vis-a-vis the major integrated oil companies which are better able to sustain the additional costs associated with the fee. Independent terminal operators provide essential gathering and storage functions for the smaller jobbers which are their customers.

In order to perform these functions, the terminal operators generally must keep product in inventory for a period of 30 to 60 days. The carrying costs associated with financing that inventory have already increased more than tenfold since the imposition of controls in 1973 as the result of a fivefold increase in product costs and the more than doubling of interest rates. Not only would terminal operators be required to absorb higher carrying costs, but in some cases the additional credit requirements associated with the fee may push them past their ability to obtain credit on any terms.

Moreover, many independent marketers are already suffering as a result of the fact that they are locked in to suppliers under the DOE's gasoline allocation program who are already substantially above the prevailing market. Mr. Blum has already referred to that problem.

The additional financial and market burden which accompanies a sudden product cost increase of some $4.20 per barrel is enormous. It is doubtful at best whether the terminal operator will be able to recoup those additional costs under current market conditions. Of course, the independent marketer must maintain prices competitive with the integrated oil companies whose enormous resources permit them to postpone full recoupment of costs in order to meet competition. And to the extent that they are already tied to high priced suppliers, independents will find that they can pass through all of their increased costs only at the expense of their historical market share.

The result will be serious disruption for small and independent importers, refiners, terminal operators, and retailers. The burden of our national conservation effort will be borne disproportionately by the independent sector of the industry. The projected reduction in demand levels projected by the administration will occur at the expense of independents who will be compelled either to absorb a substantial portion of the increased costs or to lose their market.

Major oil companies will be able to take advantage of the reduction in sales by the independent sector to maintain their current level of imports and thereby increase their market share without suffering any detrimental impact. Clearly, it is inequitable that independent marketers be made to shoulder more than their fair share of the burdens associated with conservation efforts.

Competition in the industry could be assured, but only if relief is available for those importers who are independent marketers and who are unable to sustain the cost of the conservation fee. A mechanism should be established whereby independent terminal operators could obtain fee free import licenses.

In this regard, ITOA recommends the establishment of an independent oil import appeals board within the Economic Regulatory Administration to consider, on an expedited basis, petitions by independents experiencing a hardship. Such a procedure has been utilized in past versions of import control mechanisms and is a necessary adjunct to any conservation program based upon import licensing. In this way, competition in the industry would be preserved to a certain extent.

Independent terminal operators without access to competitively priced supplies could look abroad for relief. In recognition of this, the suppliers of independent terminal operators would have an incentive to maintain competitive prices.

ITOA appreciates the opportunity to present its views on this important subject. I will be happy to respond to your questions.

Mr. Downey. Mr. Saturni, the Terminal Operators Association, I take it, is against the imposition of a fee?

Mr. Saturni. Well, we are against it in the way that it is now structured, yes.

As Mr. Blum indicated, we as other independent marketers, of course, are in favor of conservation efforts. We would hope that a means could be devised whereby those conservation efforts and the burdens of those conservation efforts don't befall independent marketers disproportionately.

Mr. Downey. If the fee is enacted as contemplated, it would, I take it, have adverse impact on the terminal operators, wouldn't it, that is, the independent terminal operators?

Mr. Saturni. Yes, it would.

Mr. DOWNEY. So I can construe from what you said that if the law is not amended or changed to allow for the separate appeals board which you suggest, the terminal operators would be opposed to the fee?

Mr. SATURNI. Yes, that is right.

Mr. DOWNEY. Mr. Blum, do you expect the actual increase of gasoline at the pump to be 10 cents after May 15?

Mr. BLUM. It depends on which station you go to, and that is precisely the problem. If it were 10 cents across the board, from a point of view of the marketer anyway—I am not talking about the larger public—it might be more tolerable. But here some companies will be able to increase it 10 cents and other retailers and wholesalers will have to absorb part of the 10-cent cost and simply lose money as a result of it, and this is unfair.

First of all, it makes it very plain that this is an administratively imposed tax. If what you really want to do is conserve and you wanted to run the price of gasoline up 10 cents, you run all gasoline up the same 10 cents.

I think this committee has an obligation to consider the institutional side of this issue. You cannot as a committee permit the administration to take away your power to tax. The Constitution gives it to you. The Congress must assert itself and must claim back this administratively taxing power which the administration has arrogated.

Mr. DOWNEY. Well, I personally strongly agree with you. I would like you to embellish your comments specifically with respect to BP and Sohio, which you claim have subsidized crude oil rates.

What would be the impact, let's say, on a community that had a number of BP and Sohio stations, and then a number of independent stations or other petroleum stations that did not have this subsidized crude oil?

Mr. BLUM. The best two markets, to give you an example, are California and Ohio. In California, Standard Oil of California has substantial Alaskan crude which it runs to make gasoline. You have Sohio which has better than 25 percent of the Ohio market. They are now selling gasoline at retail at about $1.01 in Ohio, and their competitors are taking it delivered wholesale at their stations at about $1.08. They then have to add their markup and they are selling at about $1.16 or $1.20.

What is going to happen is that Sohio will be able to raise its price from $1.01 to $1.11 and will lose no volume because Sohio will still be the cheapest gasoline in the State. Everyone else will be faced with the prospect of raising their prices and absorbing all of the conservation. It is the most expensive gasoline that gets backed out first. The alternative is eating the cost increase and already marketers in Ohio, because of this differentiation, have lost as much as 45 percent of their gross volume.

If you ratchet the whole system another 10 cents they are either going to lose a lot more volume or they are going to have to eat the 10 cents, and they haven't got it to eat.

Mr. DOWNEY. Mr. Saturni, I am interested in knowing what prevents people from passing on this 10-cent tax not only through gasoline but conceivably to other products as well, and how could you help us administer this tax if the Department of Energy gets its way in the administration, gets its way with respect to just going to gasoline? Is there anything to prevent it from going to home heating oil and diesel fuel and others?

Mr. SATURNI. Well, as you know, the prices of distillate and diesel fuel oil are uncontrolled. The only conceivable thing that would prevent increases are the guidelines of the Council on Wage and Price Stability. I don't know how effective they have been or how well the refiners have been complying. My understanding is they have had some effect in keeping distillate prices down a little bit.

As far as I know, that is the only thing that will prevent them from increasing their prices the same amount they would increase their gasoline prices after the imposition of the fee.

Mr. DOWNEY. Mr. Blum, could you address the question as to whether or not this fee will just be on gasoline or conceivably could be passed on to——

Mr. BLUM. I frankly believe this fee simply cannot be administered. First of all, it is imposed on anyone who manufactures gasoline. Gasoline, as you may know, is not only manufactured at the refinery. It can be blended. You can take a naphtha feedstock and add certain other components and turn it into gasoline. All you need to do that is a tank.

Shortly after the DOE announced this program, a contractor for DOE called my office and asked for a list of companies that blend gasoline. It was immediately apparent that the DOE in its wisdom had not checked out the difficulties that it would face in tracking all that naphtha that was likely to become gasoline. I don't think they will even find all the gasoline to collect the 10 cents. But remember—this goes to the other point you were talking about—this is a tax measured by the amount of gasoline the refiner produces. It is up to the refiner to decide how he passes it along.

What is going to happen is the demand curves for all of his products will change as the prices increase and each refiner has a different market for different sets of products. You have a very complicated economic equation and my sense is that a refiner will simply follow demand curves and pass it through wherever it suits him.

If you have a cold winter in New England, there will be very little demand for gasoline, his cost is going to go on the home heating oil, and I don't think there is a way of stopping short of recontrol.

Mr. DOWNEY. What about the comments Mr. Collins made with respect to passing, do you see that as a potential problem?

Mr. BLUM. I think less of a problem in one sense, that is to say, I don't see as much room for adding other costs in if people are selling at ceiling, but I can see opportunities for raising prices on uncontrolled products and blaming it on this fee.

Mr. DOWNEY. Would it be fair to say that both of you gentlemen would support a sales tax or some other mechanism to increase the price, and that your basic opposition is because you feel the proposed fee is nonenforceable and nonadministrable?

Mr. SATURNI. Well, I believe that is a fair statement, sir. I think that we all have to look for means of encouraging and promoting conservation. I don't think there is much enthusiasm anywhere for mandatory conservation controls. I think we have to have a mechanism whereby we have the natural economic forces of price reducing demand and encouraging conservation. I think a tax of some sort would be an effective means of doing that.

Mr. **Blum**. I would say that we would support a tax but only if that tax had some mechanism for refunding back, because a sales tax is by its very nature regressive and our customers tend to be the people who are the poorest who don't buy on credit, who pay cash, who want the cheapest gasoline they can get. I think that those people need some system that takes the pain of the regressive nature of the sales tax off their back and if you are going to impose one, there has to be some mechanism to make it progressive.

Mr. **Downey**. The reason I asked you that question, is that the chairman of the subcommittee, Mr. Vanik, feels strongly that if we don't do that, we should provide some other mechanism to conserve motor fuels, gasoline or crude oil because of our dependence on foreign sources. I want to be able to say to him that the people who testified were not opposed necessarily to increasing the price with rebates. But with respect to this fee, as you mentioned before Mr. Blum, the administration proposal for a tax that circumvents the Congress, that can't be administered, and which is not going to be understood by a vast majority of the people, and can be passed along in other forms of energy, is not something you can support. Is that not the nub of the problem?

I personally think prices are high enough without our increasing them anymore. I propose a number of ways to conserve. I just want to make sure that we have that clear.

Mr. Conable, do you have questions?

Mr. **Conable**. I have no questions. I do appreciate the testimony, though. I am sorry I wasn't here to hear it all.

I maintain that this is not a conservation measure but it is primarily a money raiser, and as such, I oppose it, and to the extent that this does not automatically flow through to the consumers, obviously it is not a conservation measure. So your testimony is appropriate to that degree in my own thinking.

I appreciate the testimony. I must say the complexity of the thing bothers me also. Would you care to tell me why the spot price appears to be reflecting the 10-cent-a-gallon increase already even though it is illegal to do so before May 15?

Mr. **Blum**. One of the reasons, of course, is that there is an element on inventory windfall for the people who have the inventories. Everyone knows the price is going up so you mark the product up the 10 cents and everything you have in inventory is now worth 10 cents more and a whole lot of people, and unfortunately the trade press, encouraged people to rush to the spot market to buy the product expecting the price will go up 10 cents on May 15. That pushed the price up in advance of May 15.

I warned people of that. That is rather illusory, because in the present market there is a vast oversupply of gasoline and there is a reality that is going to catch up some of the folks who have done the speculating and perhaps some of the holding of the product between the announcement of the program and May 15.

I think what the administration has done, they have mixed apples and oranges and given us a lemon, and it is a very complicated unenforceable, unworkable program, that in the end is going to give all of us more grief than the crude oil entitlements program.

I don't think you will be able to collect the money. I think there will be endless enforcement problems and I really do urge you to look at this and say you can't take two statutes that don't have anything to do with the issue and try to raise the $10 billion Congress won't give you.

Mr. CONABLE. Thank you.

Mr. DOWNEY. Thank you very much.

Mr. Blum, could you address—I think you have essentially—by the California and Ohio examples, what the potential impact of this might be on different regions of the country?

One of the problems is the DOE programs have left us with very different prices among different supplying companies, so that in some region of the country, where there is cheap crude oil available, customers have a better gasoline bargain. In some areas, they don't have such a good gasoline bargain.

My analysis of it is that this will fall differentially depending on the region and it may hit New England harder than it will some others. It may be less painful in Ohio and California in some respects. It may have differential effects in different ways.

One of the most important pieces of this is there is a constitutional requirement that tariffs and duties, if you want to consider this a tariff and duty, fall uniformly on the product imported. That is, every barrel imported pays the same thing. Normally that is the case. Remember that the fee is necessarily refundable depending on how much gasoline the importer manufactures, so that if you have somebody who makes more gasoline and less heating oil, he pays a somewhat higher import fee than the person who makes more heating oil. That is the differential and I believe it is unconstitutional.

Mr. DOWNEY. The subcommittee would like to welcome our colleague, Mr. Gephardt from Missouri, who is not a member of the subcommittee but a member of the full committee. Do you have any questions?

Mr. GEPHARDT. No, thank you.

Mr. DOWNEY. Mr. Blum, Mr. Saturni, thank you very much for your testimony.

Mr. SATURNI. Thank you.

Mr. BLUM. Thank you.

Mr. DOWNEY. The subcommittee would next like to hear from the International Taxicab Association, Neal Nichols, president, who will be accompanied by Andrew Waldo; Highway Users Federation, Victor Perini; and American Automobile Association, Jerry Connors.

Gentlemen, if you would.

Mr. Nichols.

STATEMENT OF NEAL NICHOLS, ON BEHALF OF THE INTERNATIONAL TAXICAB ASSOCIATION

Mr. NICHOLS. My name is Neal Nichols. I am president of Arlington Red Top Cab Co. of Arlington, Va., and I am here today to speak on behalf of the International Taxicab Association, which is the sole trade association in the taxicab industry, representing taxicab operators in every State and in all major cities of the United States.

The association's members own or control over half of the 5,387 principal corporations that operate taxicabs in the United States. I am pleased to be here to present the views of the taxicab industry on the President's oil import fee.

In his economic policy speech of March 14, 1980, the President proposed the oil import fee to encourage gasoline conservation. The taxicab industry, as an important source of public transportation, believes that this Nation must conserve its private discretionary uses of gasoline; to this end, the taxicab industry will actively support the President's oil import fee as a necessary conservation measure.

The President, in his address, also promised to convert the temporary fee into a higher excise tax on gasoline by introducing legislation to this effect. While the urgency of the situation required the President to take immediate action through the imposition of the oil import fee, over the longer term conservation will be best achieved by replacing this blunt instrument with the sharper, more well defined excise tax.

Through a tax imposed at the pump, the Government may grant exemptions for defined uses, such as public transportation. The industry urges that the President and Congress act as soon as possible to convert the fee and to grant a continuation of the present rebate of the gasoline excise tax to qualified taxicab services.

Let me now address the effects of the oil import fee on the taxicab industry and the necessity for keeping the fee temporary.

First, a continuation of the fee would penalize the driver and the company for the public transportation service they offer; ultimately it would penalize the riding public.

Unlike other services, the taxicab industry is regulated by local government and cannot pass along increased costs to the consumer at its own discretion. Fare increases are infrequent, most often, less than once a year. As a result, the taxicab operator will over the short term absorb the increased costs of gasoline consumed in transporting his passengers.

For the long term, fares will increase if the fee continues. Fare increases are neither in the public's interest nor in the taxicab operator's interest. Higher fares effectively reduce ridership, and we believe fares should be as inexpensive as possible. The taxicab is an efficient, demand responsive form of public transportation. Its passengers, such as the elderly and handicapped, do not often have an alternative method of transport.

Many of these individuals do not consume gasoline except as passengers; they are not intended targets of the fee, but they would be its victims, if it continues in the form of increased taxicab rates. Thus, if the fee continues without conversion, it will penalize the public transportation service offered by the taxicab operator for every mile driven.

In essence, the fee taxes a means of conservation. The industry believes that it is fundamentally counterproductive to impose a conservation fee on a public transportation system. If it is in the national interest, we will accept and support an oil import fee, but the President should limit its duration to the shortest possible span of time.

Second, a continuation of the fee will burden taxicab drivers who purchase their own gasoline, a quarter of whom are minorities. Many companies operate through a lease system in which the driver pays for his own gasoline. The basis of this system is a Hertz-type lease in which the driver pays to the company a lease fee dependent on time and mileage of use; the driver retains all fares, and pays for his gasoline. Twenty-four percent of all taxicab drivers belong to minority races and the percentage probably is the same among lessee drivers. These lessee drivers will personally bear the burden of the fee, since in all likelihood, a fare increase will not soon occur to compensate for the increased cost of operation resulting from the fee.

Let me now address the third point, the comparison of European and American excise taxes on gasoline. Secretary Duncan in his testimony to this subcommittee justified the oil import fee, in part, by comparing it to the very high excise taxes on gasoline imposed by European countries. With respect to the taxi industry, it should be realized that European taxi fares are generally higher and that fare increases are more frequent. That is why a continuation of the fee, thus imposing an additional cost without an efficient mechanism for rate relief, would render the American taxicab operator a victim to the public transportation service he provides.

I think the size and role of the taxicab industry is often overlooked. The taxicab industry is an important provider of public transportation. We carry 3.4 billion passengers per year, but 60 percent as many as the transit industry; we serve 3,400 communities as compared with about 1,000 served by bus and rail transit.

For some groups such as the elderly or handicapped, and in many rural communities, the taxicab may be the only feasible means of public transportation. However, present studies indicate that the rate of failure in the taxicab industry is many times higher than that of the average small business.

In conclusion, let me reiterate the industry's willingness to support the President in his gasoline conservation program. We will actively support the fee, if it is short term in effect, and converted at the earliest possible time into a tax that grants a continuation of present statutory rebates. We believe that conservation is the important need facing this country. The taxicab industry will do its part to help.

Thank you very much.

Mr. Downey. Thank you, Mr. Nichols.

[The following was subsequently received:]

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May 22, 1980

The Honorable Charles A. Vanik
Chairman
Subcommittee on Trade
U.S. House of Representatives
Washington, D.C.

Dear Mr. Vanik,

I am submitting this detailed discussion concerning the effects of the oil import fee on the taxicab industry as an addendum to the statement of Neal Nichols before the Subcommittee on Trade on May 9, 1980. To summarize the economic effects of the fee, it appears that the imposition of the fee will cost the taxicab industry and its drivers about $100 million per year, equivalent to $400 per year for every taxicab. Over the short term, the taxi operator will absorb the costs of the fee due to the infrequent nature of local fare increases to the industry. Over the longer term, a continuation of the fee would cause rate increases that would burden groups least able to afford them and most dependent on taxicab service: the elderly and handicapped, and low-income individuals in rural areas.

At present rates of fuel consumption for taxicab service, a ten cents per gallon increase in the price of gasoline translates into a .8 cents per mile increase in the cost of taxicab operation. In 1975, a Department of Transportation report estimated that taxicabs drove 12.2 billion vehicle miles. 1/ The incremental cost to the industry of the oil import fee then represents approximately $100 million per year. From another perspective, each taxicab vehicle travels about 49,000 miles each year and so the fee would raise the operating costs of each taxicab by about $400. 2/

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1. Control Data Corporation, Wells Reserach Company, Taxicab Operating Statistics, (Washington, D.C.: U.S. Department of Transportation, 1977).

2. Ibid.

These estimates assume no increase in demand for taxicab service. Present demand, however, will likely change as a result of the fee. In the short term, rate relief will probably not occur due to the infrequent nature of local taxicab fare increases. Thus, the taxi fare will not change while the import fee will increase other transportation costs where gasoline is used. Essentially, taxi service will appear relatively cheaper than before, and demand should increase.

Elasticity of demand for taxicab service is negative and near unity. "The limited evidence available suggests that fare elasticities are probably on the order of -1; that is to say, a 1 percent rise in fare would result in roughly a 1 percent drop in the number of taxi trips demanded." 3/ The importance of demand elasticity is twofold. First, since taxicab service appears relatively cheaper over the short term as a result of the oil import fee, taxicab demand will increase significantly. Second, a rate increase permitted to the taxicab industry, assuming a longer term imposition of the fee, would cause a significant decrease in ridership. That is why fare increases are not in the interests of either the taxicab industry or the public.

Those groups least able to afford it and most in need of public transportation would feel the impact of fare increases, should the fee continue over the long term. Across the nation 21 percent of taxicab users are elderly. 4/ Among the handicapped, "many turn to taxi services" for their transportation needs. 5/ In addition, individuals in small cities with low incomes are typically taxi dependent:

> Together, the results ... are most revealing in the extent to which they show small city taxi users to be homogeneously low income and taxi-dependent. 6/

For these groups--the elderly, the handicapped, and those with low incomes in small cities-- the taxicab, is the principal, if not the only, source of transportation.

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3. R. F. Kirby, et al., Paratransit, (Washington, D.C.: The Urban Institute, 1974), p. 123.

4. National Personal Transportation Study, U.S. Department of Transportation, unpublished P-6 Series Tables.

5. Congressional Budget Office, Urban Transportation for Handicapped Persons: Alternative Federal Approaches, Washington, D.C.: U.S.G.P.O, 1979), p. 17.

6. Gorman Gilbert, et al., Taxicab User Characteristics in Small and Medium Size Cities, (Washington: UMTA, 1976), p. 31.

The importance of taxicab service in small communities should be stressed. One study concludes that, in places of less than 10,000 population nationwide, taxicabs are the only source of public or specialized transportation in 16 percent of the places sampled. 7/ On the average, this figure is much higher since the taxicab industry serves 3,400 communities as compared with only 1,079 communities served by transit. 8/ In these areas, the fee would be penalizing the predominant mode of public transportation.

In conclusion, the taxicab industry urges that the fee, if imposed, be converted into an excise tax, which continues present statutory rebates to taxicab services. The industry believes that it is fundamentally counter-productive to tax a means of public transportation. For the short term, the taxi operator will absorb the costs of the fee, being unable to pass along these costs. The estimates of economic impact provided here are conservative since taxicab demand increases would impose additional costs on the industry. For the long term, if the fee continues, disadvantaged groups who consume gasoline only as passengers usually, would bear the brunt of taxi fares that would rise as a result of the fee.

Yours very truly,

Andrew B. Waldo

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7. A.F. Jackson, et al., Inventory of Transportation Services in Places of Less than 10,000 Population, (Greensboro, N.C.: North Carolina A & T State Univ., 1978), p. 13.

8. Supra, Note 1.

Mr. **Downey**. Mr. Perini.

STATEMENT OF VICTOR J. PERINI, GENERAL COUNSEL, HIGHWAY USERS FEDERATION

Mr. **Perini**. Good morning, Mr. Chairman, members of the subcommittee. I am Victor Perini, general counsel of the Highway Users Federation for Safety and Mobility.

The Federation is a nonprofit coalition of over 400 businesses, industries and associations, and over 1,900 individual members, promoting safe and efficient highway transportation. The Federation supports measures that will insure continuity of the Nation's highway transportation system and the energy needed for that system at reasonable costs.

We appreciate this opportunity to comment on the President's oil import fee, and its economic impact on the highway using public. In our view, the program has the effect of imposing an additional 10-cent-a-gallon tax on gasoline without legislation. I believe this point has been reiterated by other people in hearings before this committee.

We oppose the imposition of the oil import fee for the following reasons:

First, the price the consumer must pay by reason of this so-called energy conservation measure is too high for the energy savings it will produce. The fee, equivalent to a 250-percent increase in the Federal gasoline tax, is expected to bring only a 1-percent saving in fuel. If reduction of gasoline use is truly the administration's goal, voluntary conservation should be allowed to continue to work. Highway users have established a solid record of responsible energy use buy cutting consumption 7 percent last year, and by 8 percent for the first quarter of the year.

Second, the fee is inflationary. By the administration's own calculations, the Consumer Price Index will immediately jump one-half a percent. As the impact of the fee filters through the economy, the administration anticipates the CPI will go up another two-tenths of a percent.

Third, more cost effective programs are available. The $11 billion raised in the first year of the fee's imposition will cut consumption by 100,000 barrels—which means that the American consumer is paying nearly $300 for each barrel of oil saved. Even assuming the fee ultimately achieves the administration's goal of reducing imports by 250,000 barrels a day, the consumer will still be paying over $100 for each barrel saved.

By sharp constrast, temperature control regulations, cost only an estimated 20 cents per barrel saved, according to the Department of Energy.

Fourth, this point has been repeated by prior people testifying. Those least able to afford it will be hardest hit by the import oil fee. In its first year, the fee will cost the average American family $150. According to a recent Gallup survey, households earning less than $10,000 per year cannot cut gasoline use further without eliminating necessary trips. With your permission, Mr. Chairman, I would like to submit a copy of the Gallup survey to the subcommittee hearing record.

Mr. **Downey**. Without objection, so ordered.

Mr. **Perini**. Thank you very much.

Fifth, we believe that conservation and allocation of energy supplies should rely primarily on free market incentives. We find little comfort in the administration's program which will impose yet another layer of bureaucratic redtape over an already complicated system of Federal regulation of gasoline. Again I think that point was well stated earlier.

Finally, nothwithstanding that all petroleum user can—and indeed must—conserve if we hope to reduce dependence on imported oil, the administration places the economic burden of the fee on one product, and upon one segment of the oil consuming public, the automobile user. We do not think motorists should be singled out for what we view as an ill-conceived energy conservation measure.

Greater oil independence can never be achieved only by reducing demand. Conservation must be matched by increased domestic energy development. Highway users urge a more balanced program of conservation and production, with greater reliance on the marketplace and less on complex Government regulations.

Thank you, Mr. Chairman.

[An attachment to the statement follows:]

A GALLUP STUDY OF THE EFFECTS OF INCREASED GASOLINE PRICES ON CAR OWNERS' DRIVING HABITS

Conducted for:
THE HIGHWAY USERS' FEDERATION

INTRODUCTION

This is a report on the Gallup Study of The Effects of Increased Gasoline Prices On Car Owners' Driving Habits. This study seeks to measure the changes made in family driving habits over the past year, during which fuel prices increased greatly. A nationally representative sample was questioned concerning their means of coping with these recent price hikes.

More specifically, the objectives of this survey were to determine:

1. The extent to which increased gasoline prices have affected family driving practices.
2. The specific changes made in family driving habits as a result of the price hikes.
3. The changes made in the means of transportation used to get to work among working members of the household.
4. An estimate of the amount of driving which could be reduced without affecting necessary trips by car.
5. Attitudes toward the proposed fifty cent per gallon tax which would be placed on gasoline to encourage conservation.

For this survey a total of 1,572 respondents were personally interviewed between February 29, 1980 and March 7, 1980. All 1,572 respondents were questioned about their attitudes toward the proposed tax on gasoline and screened to determine whether or not they owned a car. A total of 1,397 car owners were identified and further questioned concerning their driving habits.

THE QUESTIONS ASKED

EVERYONE WAS ASKED:

1. *How many cars, vans or other motor vehicles do you and the other members of this household own?*

ALL CAR OWNERS WERE ASKED:

2. *To what extent have increasing gasoline prices over the past year affected you and your family's driving habits? Would you say driving habits have been affected a great deal, somewhat, not very much or not at all?*

ALL WHOSE DRIVING HABITS HAVE BEEN AFFECTED TO SOME EXTENT WERE ASKED:

3. (HAND CARD 1) *In what ways, if any, have you or your family's driving habits changed as a result of increased gasoline prices? Just call off the number of numbers, please.*

   Compared to a year ago . . . .

   - *Now driving less*
   - *Drive less and drive with conservation in mind*
   - *Drive the same amount, but drive with conservation in mind*
   - *Drive more, but drive with conservation in mind*
   - *Of all the cars owned, I or other family members try to use the one which gets the best fuel mileage whenever possible*
   - *Purchased a car which gets better fuel mileage*
   - *None of the above*

ALL WHO ARE NOW DRIVING LESS WERE ASKED:

4. (HAND CARD 2) *In which of the following areas have you or your family reduced driving?*

   Compared to a year ago . . . . .

   - *Drive less for social reasons and less on weekends*
   - *Take shorter vacation trips by car*

The Questions Asked (Continued)

- *Don't use a car for vacation trips*
- *Don't commute to work by car as often*
- *Cut down on the number of shopping trips by car*
- *Other (Specify)*

ALL CAR OWNERS WERE ASKED:

5. (HAND CARD 3) *Which statement or statements on this card describes how you and other members of this household got to work before gasoline prices began to increase, that is, about a year ago? Just call off the numbers of all that apply.*

    - *Drove to work alone*
    - *Drove to work with others*
    - *Used public transportation*
    - *Walked to work*
    - *Used some other means (Specify)*

ALL WHO DROVE TO WORK ALONE BEFORE GASOLINE PRICES INCREASED WERE ASKED:

6. *Have higher gasoline prices encouraged someone in your family to stop driving to work alone?*

ALL WHO HAVE STOPPED DRIVING TO WORK ALONE WERE ASKED:

7. *How does that person now get to work? By riding with others in a car or van pool? By public transportation? Or using some other means such as walking or bicycling?*

ALL CAR OWNERS WERE ASKED:

8. *Suppose you and your family had to cut down on the amount of driving you do, by what percent could you cut down without affecting necessary trips by car?*

The Questions Asked (Continued)

EVERYONE WAS ASKED:

9. (HAND CARD 4) *It has been suggested that a 50¢ per gallon tax be placed on gasoline to encourage conservation. Which of the following statements on this card best describes your feeling on this issue?*

- *Strongly in favor of a 50¢ per gallon tax*
- *Somewhat in favor of a 50¢ per gallon tax*
- *I don't have an opinion on this issue*
- *Somewhat opposed to a 50¢ per gallon tax*
- *Strongly opposed to a 50¢ per gallon tax*

SUMMARY OF FINDINGS

The increases in gasoline prices over the past year have had an effect on the driving habits of the majority - eighty-seven percent - of all car owners. Car owners report that their driving habits have been affected either a great deal (40%), somewhat (35%), not very much (12%) or not at all (12%). As a result of these recent increases in fuel prices, seventy percent of those whose driving habits whave been affected report that they are now driving less than a year ago (28%) or driving less with conservation in mind (42%). Those who are now doing less driving are most likely to mention that they have reduced their weekend and social driving (63%) and cut down on the number of shopping trips they make with their car (49%). Car owners who report their driving has been affected a great deal by the gasoline price hikes are significantly more likely than those feeling less of the effects to report they are now driving less and using their car less often for social reasons and weekend driving.

Before the increase in fuel prices, nearly seven in ten (69%) car owners drove to work alone. Relatively smaller proportions reported having driven to work with others (12%) or using public transportation (6%). Among those who had been commuting to work alone, one in five (20%) now report that someone in their family has stopped driving alone because of the increased cost involved. Three in four (76%) car owners who have stopped driving to work alone report that they now drive to work with others, while 14% now use public transportation.

Nearly three in four (73%) car owners believe they would be able to cut down on their driving to some extent without affecting necessary trips. Nearly half (48%) mention they could reduce their driving by between one and twenty-four percent and one in four (25%) report they could cut back on use of their car by one-fourth or more, although relatively few (3%) mention they could cut back on driving by fifty-five percent or more.

Throughout this survey, driving habits were found to differ most with regard to annual household income. Respondents in households earning less than $20,000 a year are significantly more likely than the affluent to report their driving habits have been affected a great deal by the increase in gasoline prices. Furthermore, those in households earning less than $10,000 are significantly more likely than others to report that they could not cut back on their driving without eliminating necessary trips. The affluent car owners whose driving habits have been affected are significantly more likely than low income car owners to mention they are coping with the problem by buying a car which gets better fuel mileage or, of all cars owned, using the car which gets the best fuel mileage.

With regard to the proposed 50¢ per gallon tax on gasoline, nearly eight in ten (79%) respondents report opposition, while relatively few mention that they are strongly (3%) or somewhat (5%) in favor of this tax as a means of encouraging conservation.

The Extent To Which Increased Gasoline Prices Have Affected Driving Habits

The Question: *To what extent have increasing gasoline prices over the past year affected you and your family's driving habits? Would you say driving habits have been affected a great deal, somewhat, not very much or not at all?*

Eighty-seven percent of all car owners report that the increasing cost of gasoline has had an affect on their family's driving habits. Four in ten (40%) mention that their driving habits have been affected a great deal, one in three (35%) report their driving habits have been affected somewhat and 12% report thay have been affected, but not very much. A relatively small proportion (12%) state their driving habits have not at all been affected by the rising gasoline prices. Very few (1%) car owners were unable to estimate the effects of increasing fuel prices on their driving habits.

Driving Habits Have Been Affected By Increasing Gasoline Prices . . .	Car Owners %
A great deal	40
Somewhat	35
Not very much	12
Not at all	12
No answer	1
Total	100
Number of Interviews	(1397)

Car owners in households earning less than $20,000 annually (44%) are significantly more likely than those in affluent households, i.e., annual household incomes of $20,000 and over, (34%) to report that their family's driving habits have been affected a great deal by the increasing cost of gasoline. Furthermore, households in which the chief wage earner is a manual laborer (51%) are significantly more likely than others to mention their driving habits have been greatly affected by the increase in gasoline prices over the last year.

	Based On All Car Owners				
		Annual Household Income			
Driving Habits Have Been Affected by Increasing Gasoline Prices . . .	Total %	$20,000 & Over %	$15,000-19,000 %	$10,000-14,999 %	Under $10,000 %
A great deal	40	34	$\boxed{43}$	$\boxed{47}$	$\boxed{43}$
Somewhat	35	43	38	29	26
Not very much	12	13	7	12	14
Not at all	12	10	12	11	15
No answer	1	0	0	1	2
Total	100	100	100	100	100
Number of Interviews	(1397)	(582)	(246)	(244)	(312)

	Based On All Car Owners					
		Occupation of Chief Wage Earner				
Driving Habits Have Been Affected By Increased Gasoline Prices . . .	Total %	Professional & Business %	Clerical & Sales %	Manual Labor %	Farmer %	Non Labor Force %
A great deal	40	33	31	$\boxed{51}$	26	38
Somewhat	35	43	38	30	50	28
Not very much	12	13	17	10	12	13
Not at all	12	11	14	8	12	20
No answer	1	0	0	1	0	1
Total	100	100	100	100	100	100
Number of Interviews	(1397)	(467)	(100)	(495)	(45)	(265)

Ways In Which Driving Habits Have Changed As a Result Of Increased Gasoline Prices

The Question: *In what ways, if any, have you or your family's driving habits changed as a result of increased gasoline prices?*

Among those whose driving habits have changed as a result of increased gasoline prices, seven in ten (70%) report that they are now driving less than before; forty-two percent are driving less with conservation in mind, while 28% mention only that they are now driving less. One in five (19%) report that, of all cars owned, they try to use the car which gets the best fuel mileage whenever possible. Fifteen percent have not changed the amount of driving they do, but they do drive with conservation in mind and a similar proportion (15%) have purchased a car which gets better fuel mileage. A relatively samll proportion (3%) mention that they are now driving more, but drive with conservation in mind.

The proportion of persons reporting that, of all cars owned, they now try to use the one which gets the best mileage or that they purchased a new car which gets better fuel mileage increases significantly from the lowest income group to the most affluent households. Residents of the West (75%) appear somewhat more likely than residents of the South (70%), East (70%) and Midwest (66%) to report they are now doing less driving, however this difference is not significant.

Based On All Whose Driving Habits Have Changed To Some Extent

Ways In Which Driving Habits Have Changed	Total %	Annual Household Income $20,000 & Over %	$15,000-$19,999 %	$10,000-$14,999 %	Under $10,000 %
Drive less and drive with conservation in mind	42	46	39	46	36
Now driving less	28	22	32	26	36
Of all the cars owned, I or other family members try to use the one which gets the best fuel mileage whenever possible	19	$\boxed{27}$	22	10	8
Drive the same amount, but drive with conservation in mind	15	17	14	17	13
Purchased a car which gets better fuel mileage	15	$\boxed{23}$	11	8	9
Drive more, but drive with conservation in mind	3	3	2	4	4
None of the above	3	2	4	2	2
No answer	1	1	0	1	2
Total *	126	141	124	114	110
Number of Interviews	(1572) .	(594)	(255)	(274)	(433)

Based On All Whose Driving Habits Have Changed To Some Extent

Ways In Which Driving Habits Have Changed	Total %	Region East %	 Midwest %	 South %	 West %
Drive less and drive with conservation in mind	42	44	46	38	41
Now driving less	28	26	20	32	34
Of all the cars owned, I or other family members try to use the one which gets the best fuel mileage whenever possible	19	25	18	14	19
Drive the same amount, but drive with conservation in mind	15	16	18	15	11
Purchased a car which gets better fuel mileage	15	15	16	13	16
Drive more, but drive with conservation in mind	3	2	4	3	4
None of the above	3	3	3	2	2
No answer	1	1	1	1	2
Total*	126	132	126	118	129
Number of Interviews	(1572)	(461)	(446)	(399)	(266)

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*Totals exceed 100% due to multiple responses.

As might be expected, car owners who report that the increasing cost of gasoline has affected their driving habits a great deal (83%) are significantly more likely than those whose habits have not been affected very much (34%) to report they are now driving less or driving less with conservation in mind. Those who have not been affected very much by the price hikes (35%) are significantly more likely than persons whose driving habits have been greatly affected (6%) to mention they now drive the same amount, but drive with conservation in mind.

Ways In Which Family's Driving Habits Have Changed	Extent to Which Increased Gas Prices Have Affected Driving Habits: Great Deal	Somewhat	Not Very Much
	%	%	%
Now driving less	37	22	14
Drive less and drive with conservation in mind	46	46	20
Drive the same amount, but drive with conservation in mind	6	20	35
Drive more, but drive with conservation in mind	2	2	7
Of all cars owned, we try to use the one which gets the best fuel mileage	18	21	14
Purchased a car which gets better fuel mileage	15	17	10
None of the above	1	1	13
No answer	1	1	2
Total*	126	130	115
Number of Interviews	(551)	(507)	(164)

*Totals exceed 100% due to multiple responses.

Areas In Which Driving Has Been Reduced

The Question: *In which of the following areas have you or your family reduced driving?*

Compared to a year ago . . . .

Those respondents who are now driving less most frequently report that they have reduced their weekend and social driving (63%). Nearly half (49%) have cut down on the number of shopping trips they make by car. Eighteen percent mention they have cut back on their driving by taking shorter vacation trips by car. Twelve percent of those who are driving less don't use a car for vacation trips anymore and a similar proportion (11%) report that they are not commuting to work by car as often as a year ago. Very few (2%) mention they have cut back on their driving in an area other than those already mentioned.

Middle income (i.e., annual household income of $10,000-$19,999) respondents (71%) are significantly more likely than the affluent (60%) and the lowest income groups (58%) to mention that they have reduced their driving by using the car less often for social reasons and on weekends. Although the following differences are not significant, the affluent somewhat more frequently than the low income group report that they have cut down on the number of shopping trips they make by car and are now taking shorter vacation trips by car.

	Based On All Who Are Now Driving Less			
		Annual Household Income		
Areas In Which Driving Has Been Reduced	Total	$20,000 & Over	$10,000-$19,999	Under $10,000
	%	%	%	%
Drive less for social reasons and less on weekends	63	60	$\boxed{71}$	58
Cut down on number of shopping trips by car	49	51	50	42
Take shorter vacation trips by car	18	21	18	12
Don't use a car for vacation trips	12	8	14	13
Don't commute to work by car as often	11	13	9	11
Other	2	1	1	3
No answer	11	15	8	10
Total*	166	169	171	149
Number of Interviews	(871)	(348)	(320)	(196)

*Totals exceed 100% due to multiple responses.

Driving less for social reasons and less on weekends is significantly more likely to be reported by those whose driving habits have been affected a great deal (72%) than by those whose habits have not been affected very much by the rising price of gasoline (32%). Respondents whose driving habits have been most affected more frequently than others report that they have reduced their driving in each of the five areas listed, however not all of these differences are significant.

Ways In Which Family Has Reduced Driving	Extent To Which Increased Gas Prices Have Affected Driving Habits		
	Great Deal	Somewhat	Not Very Much
	%	%	%
Drive less for social reasons and less on weekends	$\boxed{72}$	56	32
Take shorter vacation trips by car	19	16	12
Don't use car for vacation trips	14	10	9
Don't commute to work by car as often	12	11	6
Cut down on number of shopping trips by car	50	49	37
Other	2	1	3
No answer	9	14	23
Total*	178	157	122

*Totals exceed 100% due to multiple responses.

Means Of Transportion To Work Used Before Gasoline Prices Increased

The Question: *Which statement or statements on this card describes how you and other members of this household got to work before gasoline prices began to increase, that is, about a year ago? Just call off the numbers of all that apply.*

The majority (69%) of car owners report that they and other members of their household drove to work alone before the gasoline price hikes. Twelve percent mention that they had been driving to work with others before gasoline prices increased. Roughly one in twenty (6%) used public transportation to get to work and a somewhat smaller proportion (4%) report that they walked to work before the recent increases in gasoline prices. Relatively few (1%) car owners mention having used a means of transportation other than those mentioned above.

Means of Getting To Work Before Gasoline Prices Increased	All Car Owners
	%
Drove to work alone	69
Drove to work with others	12
Used public transportation	6
Walked to work	4
Used some other means	1
No answer	14
Total*	106
Number of Interviews	(1397)

*Total exceeds 100% due to multiple responses.

Respondents in households with annual incomes of $20,000 or more (78%) are significantly more likely than the lowest income group (53%) to report that they and other family members drove to work alone before the gasoline price hikes. As might be expected due to the availability of public transportation in large cities, car owners living in cities with a population of one million or more (13%) are significantly more likely to report having used public transportation before gasoline prices increased than are residents of cities with a population under 50,000 (1%).

Means of Getting To Work Before Gasoline Prices Increased	Based On All Car Owners								
		Annual Household Income				City Size			
	Total	$20,000 & Over	$15,000-$19,999	$10,000-$14,999	Under $10,000	One Million & Over	250,000 One Million	50,000-250,000	Under 50,000
	%	%	%	%	%	%	%	%	%
Drove to work alone	69	$\boxed{78}$	70	68	53	63	72	71	68
Drove to work with others	12	12	17	10	10	10	10	16	13
Used public transportation	6	6	10	4	3	$\boxed{13}$	9	7	1
Walked to work	4	5	3	4	5	4	1	6	5
Used some other means	1	1	2	*	1	1	2	*	1
No answer	14	5	6	16	34	12	14	9	17
Total**	106	107	108	102	106	103	108	109	105
Number of Interviews	(1397)	(582)	(246)	(246)	(312)	(257)	(302)	(256)	(582)

*Less than one half of one percent.

**Totals exceed 100% due to multiple responses.

Changes Made In Means of Transportation To Work Among Those Who Drove To Work Alone Before Gasoline Prices Increased

The Questions: *Have higher gasoline prices encouraged someone in your family to stop driving to work alone?*

How does that person now get to work? By riding with others in a car or vanpool? By public transportation? Or using some other means such as walking or bicycling?

Those respondents who reported that they and other members of their household drove to work alone before gasoline prices increased were asked whether the higher gasoline prices had encouraged someone in their family to stop driving to work alone. Roughly seven in ten (72%) report they have not stopped driving to work alone despite the rising cost of doing so. However, one in five (20%) mention that someone in their family has stopped driving to work alone as a result of the rising cost of fuel.

Among those who have stopped driving to work alone, three in four (76%) report they are now driving to work with others. A relatively smaller proportion (14%) mention they are now using public transportation to get to work. Nearly one in ten (9%) are using another means of transportition such as walking or bicycling.

Have Higher Gasoline Prices Encouraged Someone In Your Family To Stop Driving To Work Alone?	All Who Drive To Work Alone Before Increased Gas Prices
	%
Yes	20
No	72
No one drives to work	4
No answer	4
Total	100
Number of Interviews	(940)

How Person Now Gets To Work	All Who Have Stopped Driving To Work Alone Due To Gasoline Price Hikes
	%
Riding with others	76
Public transportation	14
Other means (walking, bicycling)	9
No answer	4
Total	103
Number of Interviews	(184)

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*Total exceeds 100% due to multiple responses.

Percentage of Driving Which Could Be Reduced Without Affecting Necessary Car Trips

The Question: *Suppose you and your family had to cut down on the amount of driving you do, by what percent could you cut down without affecting necessary trips by car?*

Nearly three in four (73%) car owners report that, if they had to, they could cut down on their driving to some extent without affecting necessary trips. Thirteen percent mention they would be able to reduce their use of the car by between one and nine percent and two in ten (21%) report they would be able to cut back on their driving by ten percent without eliminating necessary trips. Fourteen percent consider they would be able to reduce their driving by between eleven and twenty percent. One in four (25%) car owners report that they could cut down on their driving by one-fourth or more without affecting necessary trips, although relatively few (3%) mention they could reduce their use of the car by 55% or more.

Twenty-three percent report that they would not be able to cut back on any of their driving unless they were to eliminate necessary trips. Members of low income households (32%) are significantly more likely than the affluent (18%) to report that they would be unable to reduce their driving without cutting back on necessary car trips.

Based On All Car Owners

Percentage of Driving Which Could Be Reduced	Total %	Annual Household Income $20,000 & Over %	$15,000-$19,999 %	$10,000-$14,999 %	Under $10,000 %
None-0 percent	23	18	22	25	$\boxed{32}$
1 - 4 percent	3	4	2	6	3
5 percent	9	9	12	7	10
6 - 9 percent	1	*	2	1	*
10 percent	21	23	22	18	18
11 - 19 percent	6	7	4	8	3
20 percent	8	9	8	10	6
21 - 24 percent	0	0	0	0	0
25 percent	9	12	9	7	6
26 - 34 percent	4	5	4	3	3
35 - 45 percent	1	1	3	1	1
46 - 54 percent	8	7	7	9	8
55 percent and over	3	3	1	1	4
No answer	4	2	4	4	6
Total	100	100	100	100	100
Number of Interviews	(1397)	(582)	(246)	(244)	(312)

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*Less the one half of one percent.

Attitudes Toward a 50 cent per Gallon Tax On Gasoline

The Question: *It has been suggested that a 50 cent per gallon tax be placed on gasoline to encourage conservation. Which of the following statements on this card best describes your feeling on this issue?*

Nearly two in three (64%) respondents report strong opposition to the proposed fifty cent per gallon tax on gasoline. An additional 15% are somewhat opposed to this tax which would be placed on gasoline to encourage conservation. Relatively small proportions report that they are strongly (3%) or somewhat (5%) in favor of this gasoline tax. Roughly one in ten (11%) do not have an opinion on this issue.

Respondents in households with an annual income of $20,000 or over (83%) are significantly more likely than the lowest income group (73%) to report opposition to the proposed 50 cent tax on gasoline. The low income group (17%) is more likely than the affluent (4%) to report that they have no opinion on this issue.

	Based On Total Sample				
		Annual Household Income			
Attitudes Toward 50 Cents Per Gallon Tax On Gasoline	Total	$20,000 & Over	$15,000-$19,999	$10,000-$14,999	Under $10,000
	%	%	%	%	%
Strongly in favor	3	4	3	2	3
Somewhat in favor	5	8	4	4	4
I don't have an opinion on the issue	11	4	12	12	17
Somewhat opposed	15	17	13	12	14
Strongly opposed	64	66	67	68	59
No answer	2	1	1	2	3
Total	100	100	100	100	100
Number of Interviews	(1572)	(594)	(255)	(274)	(433)

Among all car owners, two in three (66%) report that they strongly oppose the proposed 50 cent per gallon tax on gasoline. An additional 16% mention that they are somewhat opposed to such a tax. Therefore, car owners (82%) are not significantly more likely than the total sample (79%) to report opposition to the proposed gasoline tax. One in twenty (5%) car owners mention that they are somewhat in favor of this gasoline tax, while a somewhat smaller proportion (3%) reports that they are strongly in favor of the 50 cent gasoline tax.

Attitudes Toward 50 Cents Per Gallon Tax on Gasoline	All Car Owners %
Strongly in favor	3
Somewhat in favor	5
I don't have an opinion on the issue	9
Somewhat opposed	16
Strongly opposed	66
No answer	1
Total	100
Number of Interviews	(1392)

EXTENT TO WHICH DRIVING HABITS HAVE BEEN AFFECTED BY INCREASING GASOLINE PRICES OVER THE PAST YEAR
BASED ON DID NOT SAY NO MOTOR VEHICLE OWNED IN HOUSEHOLD

		ANNUAL HOUSEHOLD INCOME				OCC OF CHIEF WAGE EARNER					CITY SIZE				
	TOTAL	$20M & OVER	$15M-19999	$10M-14999	UNDER $10M	PROF & BUS	CLER/SALES	MAN'L LABOR	FARM-ER	NON-LABOR FORCE	1 MIL & OVER	250M-1 MIL	50M-250M	2500-49999	UNCRB 2500
WEIGHTED BASE	2414	982	430	419	559	757	195	952	73	392	405	528	456	363	662
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
DRIVING HABITS HAVE BEEN AFFECTED BY INCREASING GASOLINE PRICES...															
A GREAT DEAL	970	329	186	199	242	248	60	481	19	147	162	181	203	141	283
	40.2	33.5	43.3	47.5	43.3	32.8	30.8	50.5	26.0	37.5	40.0	34.3	44.5	38.8	42.7
SOMEWHAT	858	422	164	121	146	329	73	290	36	110	118	220	147	132	241
	35.5	43.0	38.1	28.9	26.1	43.5	37.4	30.5	49.3	28.1	29.1	41.7	32.2	36.4	36.4
NOT VERY MUCH	292	131	31	52	76	97	34	95	9	53	55	51	64	30	92
	12.1	13.3	7.2	12.4	13.6	12.8	17.4	10.0	12.3	13.5	13.6	9.7	14.0	8.3	13.9
NOT AT ALL	279	100	49	45	82	83	28	77	9	77	68	75	38	55	43
	11.6	10.2	11.4	10.7	14.7	11.0	14.4	8.1	12.3	19.6	16.8	14.2	8.3	15.2	6.5
CAN'T SAY/DON'T KNOW	15			2	13			9		5	2	1	4	5	3
	.6			.5	2.3			.9		1.3	.5	.2	.9	1.4	.5
NUMBER OF INTERVIEWS	1397	582	246	244	312	467	100	495	45	265	257	302	256	211	371

EXTENT TO WHICH DRIVING HABITS HAVE BEEN AFFECTED BY INCREASING GASOLINE PRICES OVER THE PAST YEAR
BASED ON DID NOT SAY NO MOTOR VEHICLE OWNED IN HOUSEHOLD

	TOTAL	REGION				REGION IN DETAIL							
		EAST	MID-WEST	SOUTH	WEST	NEW ENGL'D	MID-ATLAN-TIC	EAST CEN-TRAL	WEST CEN-TRAL	SOUTH-EAST	SOUTH-WEST	ROCKY MOUN-TAIN	FAR WEST
WEIGHTED BASE	2414	608	666	670	470	147	461	424	242	473	197	99	371
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
DRIVING HABITS HAVE BEEN AFFECTED BY INCREASING GASOLINE PRICES...													
A GREAT DEAL	970	235	259	307	169	57	178	176	83	211	96	27	142
	40.2	38.7	38.9	45.8	36.0	38.8	38.6	41.5	34.3	44.6	48.7	27.3	38.3
SOMEWHAT	858	242	242	222	152	64	178	144	98	167	55	24	128
	35.5	39.8	36.3	33.1	32.3	43.5	38.6	34.0	40.5	35.3	27.9	24.2	34.5
NOT VERY MUCH	292	65	75	80	72	13	52	47	28	56	24	26	46
	12.1	10.7	11.3	11.9	15.3	8.8	11.3	11.1	11.6	11.8	12.2	26.3	12.4
NOT AT ALL	279	63	85	57	74	13	50	52	33	35	22	19	55
	11.6	10.4	12.8	8.5	15.7	8.8	10.8	12.3	13.6	7.4	11.2	19.2	14.8
CAN'T SAY/DON'T KNOW	15	3	5	4	3		3	5		4		3	
	.6	.5	.8	.6	.6		.7	1.2		.8		3.0	
NUMBER OF INTERVIEWS	1397	390	406	356	245	87	303	260	146	247	109	56	189

WAYS IN WHICH DRIVING HABITS HAVE CHANGED AS A RESULT OF INCREASED GASOLINE PRICES
BASED ON DRIVING HABITS HAVE BEEN AFFECTED/CAN'T SAY

		ANNUAL HOUSEHOLD INCOME				OCC OF CHIEF WAGE EARNER					CITY SIZE				
	TOTAL	$20M &OVER	$15M- 19999	$10M- 14999	UNDER $10M	PROF & BUS	CLER/ SALES	MAN'L LABOR	FARM -ER	NON-LABOR FORCE	1 MIL &OVER	250M- 1 MIL	50M- 250M	2500- 49999	UNDER 2500
WEIGHTED BASE	2135	882	381	374	477	674	167	875	64	315	337	453	418	308	619
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
WAYS IN WHICH DRIVING HABITS HAVE CHANGED															
NOW DRIVING LESS	593	197	122	97	171	142	52	267	10	113	97	129	134	80	153
	27.8	22.3	32.0	25.9	35.8	21.1	31.1	30.5	15.6	35.9	28.8	28.5	32.1	26.0	24.7
DRIVE LESS AND DRIVE WITH CONSERVATION IN MIND	903	405	150	172	171	327	59	343	34	131	124	207	152	132	288
	42.3	45.9	39.4	46.0	35.8	48.5	35.3	39.2	53.1	41.6	36.8	45.7	36.4	42.9	46.5
DRIVE SAME BUT DRIVE WITH CONSERVATION IN MIND	326	146	53	63	64	122	30	116	7	44	65	79	60	48	74
	15.3	16.6	13.9	16.8	13.4	18.1	18.0	13.3	10.9	14.0	19.3	17.4	14.4	15.6	12.0
DRIVE MORE BUT DRIVE WITH CONSERVATION IN MIND	64	26	6	13	17	16	15	27	3		21	9	14	11	9
	3.0	2.9	1.6	3.5	3.6	2.4	9.0	3.1	4.7		6.2	2.0	3.3	3.6	1.5
USE THE CAR WITH THE BEST FUEL MILEAGE WHEN POSSIBLE	402	236	82	39	38	148	24	185	11	30	47	79	70	49	157
	18.8	26.8	21.5	10.4	8.0	22.0	14.4	21.1	17.2	9.5	13.9	17.4	16.7	15.9	25.4
PURCHASED A CAR WHICH GETS BETTER FUEL MILEAGE	317	203	43	29	42	129	23	120	10	27	42	79	46	41	109
	14.8	23.0	11.3	7.8	8.8	19.1	13.8	13.7	15.6	8.6	12.5	17.4	11.0	13.3	17.6
NONE OF THE ABOVE	56	18	15	8	11	20	1	24	2	2	9	5	13	8	21
	2.6	2.0	3.9	2.1	2.3	3.0	.6	2.7	3.1	.6	2.7	1.1	3.1	2.6	3.4
CAN'T SAY	24	9		5	8	8	2	5		8	5	1	3	2	13
	1.1	1.0		1.3	1.7	1.2	1.2	.6		2.5	1.5	.2	.7	.6	2.1
NUMBER OF INTERVIEWS	1572	594	255	274	433	483	114	540	47	354	321	355	272	230	394
	73.6	67.3	66.9	73.3	90.8	71.7	68.3	61.7	73.4	112.4	95.3	78.4	65.1	74.7	63.7

WAYS IN WHICH DRIVING HABITS HAVE CHANGED AS A RESULT OF INCREASED GASOLINE PRICES
BASED ON DRIVING HABITS HAVE BEEN AFFECTED/CAN'T SAY

		REGION				REGION IN DETAIL							
	TOTAL	EAST	MID-WEST	SOUTH	WEST	NEW ENGL'D	MID-ATLAN-TIC	EAST CEN-TRAL	WEST CEN-TRAL	SOUTH-EAST	SOUTH-WEST	ROCKY MOUN-TAIN	FAR WEST
WEIGHTED BASE	2135 100.0	545 100.0	581 100.0	613 100.0	396 100.0	134 100.0	411 100.0	372 100.0	209 100.0	438 100.0	175 100.0	80 100.0	316 100.0
WAYS IN WHICH DRIVING HABITS HAVE CHANGED													
NOW DRIVING LESS	593 27.8	141 25.9	119 20.5	197 32.1	136 34.3	38 28.4	103 25.1	82 22.0	37 17.7	145 33.1	52 29.7	16 20.0	120 38.0
DRIVE LESS AND DRIVE WITH CONSERVATION IN MIND	903 42.3	237 43.5	270 46.5	233 38.0	163 41.2	65 48.5	172 41.8	172 46.2	98 46.9	172 39.3	61 34.9	39 48.8	124 39.2
DRIVE SAME BUT DRIVE WITH CONSERVATION IN MIND	326 15.3	88 16.1	102 17.6	91 14.8	45 11.4	9 6.7	79 19.2	63 16.9	39 18.7	66 15.1	25 14.3	14 17.5	31 9.8
DRIVE MORE BUT DRIVE WITH CONSERVATION IN MIND	64 3.0	9 1.7	22 3.8	19 3.1	14 3.5		9 2.2	17 4.6	5 2.4	9 2.1	10 5.7	6 7.5	8 2.5
USE THE CAR WITH THE BEST FUEL MILEAGE WHEN POSSIBLE	402 18.8	135 24.8	105 18.1	88 14.4	74 18.7	38 28.4	97 23.6	70 18.8	35 16.7	64 14.6	24 13.7	19 23.8	55 17.4
PURCHASED A CAR WHICH GETS BETTER FUEL MILEAGE	317 14.8	83 15.2	91 15.7	81 13.2	62 15.7	16 11.9	67 16.3	51 13.7	40 19.1	55 12.6	26 14.9	16 20.0	46 14.6
NONE OF THE ABOVE	56 2.6	14 2.6	19 3.3	15 2.4	8 2.0	3 2.2	11 2.7	10 2.7	9 4.3	9 2.1	6 3.4		8 2.5
CAN'T SAY	24 1.1	7 1.3	7 1.2	3 .5	7 1.8		7 1.7	5 1.3	2 1.0	2 .5	1 .6	2 2.5	5 1.6
NUMBER OF INTERVIEWS	1572 73.6	461 84.6	446 76.8	399 65.1	266 67.2	99 73.9	362 88.1	288 77.4	158 75.6	279 63.7	120 68.6	56 70.0	210 66.5

AREAS IN WHICH DRIVING HAS BEEN REDUCED
BASED ON DRIVE LESS

		ANNUAL HOUSEHOLD INCOME				OCC OF CHIEF WAGE EARNER					CITY SIZE				
	TOTAL	$20M &OVER	$15M- 19999	$10M- 14999	UNDER $10M	PROF & BUS	CLER/ SALES	MAN'L LABOR	FARM -ER	NON- LABOR FORCE	1 MIL &OVER	250M- 1 MIL	50M- 250M	2500- 49999	UNDER 2500
WEIGHTED BASE	1496 100.0	602 100.0	272 100.0	269 100.0	342 100.0	469 100.0	111 100.0	610 100.0	44 100.0	244 100.0	221 100.0	336 100.0	286 100.0	212 100.0	441 100.0
AREAS IN WHICH DRIVING HAS BEEN REDUCED															
DRIVE LESS FOR SOCIAL REASON & LESS ON WEEKENDS	946 63.2	359 59.6	187 68.8	195 72.5	198 57.9	301 64.2	68 61.3	397 65.1	30 68.2	136 55.7	149 67.4	199 59.2	182 63.6	140 66.0	276 62.6
TAKE SHORTER VACATION TRIPS BY CAR	271 18.1	128 21.3	51 18.8	48 17.8	41 12.0	108 23.0	21 18.9	104 17.0		34 13.9	48 21.7	74 22.0	46 16.1	43 20.3	60 13.6
DON'T USE A CAR FOR VACATION TRIPS	177 11.8	51 8.5	39 14.3	39 14.5	43 12.6	57 12.2	7 6.3	68 11.1	8 18.2	33 13.5	28 12.7	29 8.6	45 15.7	22 10.4	53 12.0
DON'T COMMUTE TO WORK BY CAR AS OFTEN	165 11.0	77 12.8	30 11.0	17 6.3	39 11.4	64 13.6	19 17.1	66 10.8	1 2.3	15 6.1	25 11.3	51 15.2	38 13.3	15 7.1	36 8.2
CUT DOWN ON THE NUMBER OF SHOPPING TRIPS BY CAR	728 48.7	307 51.0	124 45.6	149 55.4	144 42.1	228 48.6	52 46.8	282 46.2	21 47.7	137 56.1	104 47.1	168 50.0	126 44.1	103 48.6	227 51.5
OTHER	23 1.5	6 1.0	4 1.5	2 .7	11 3.2	2 .4	2 1.8	12 2.0		7 2.9	6 2.7	6 1.8	2 .7	2 .9	7 1.6
CAN'T SAY	167 11.2	90 15.0	27 9.9	16 5.9	33 9.6	54 11.5	13 11.7	75 12.3	6 13.6	19 7.8	16 7.2	39 11.6	29 10.1	23 10.8	60 13.6
NUMBER OF INTERVIEWS	871	340	157	163	196	287	61	325	25	163	141	152	159	129	290

AREAS IN WHICH DRIVING HAS BEEN REDUCED
BASED ON DRIVE LESS

		REGION				REGION IN DETAIL							
	TOTAL	EAST	MID-WEST	SOUTH	WEST	NEW ENGL'D	MID-ATLAN-TIC	EAST CEN-TRAL	WEST CEN-TRAL	SOUTH-EAST	SOUTH-WEST	ROCKY MOUN-TAIN	FAR WEST
WEIGHTED BASE	1496	378	389	430	299	103	275	254	135	317	113	55	244
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
AREAS IN WHICH DRIVING HAS BEEN REDUCED													
DRIVE LESS FOR SOCIAL REASON & LESS ON WEEKENDS	946	233	236	276	201	55	178	165	71	191	85	39	162
	63.2	61.6	60.7	64.2	67.2	53.4	64.7	65.0	52.6	60.3	75.2	70.9	66.4
TAKE SHORTER VACATION TRIPS BY CAR	271	62	86	81	42	8	54	60	26	66	15	5	37
	18.1	16.4	22.1	18.8	14.0	7.8	19.6	23.6	19.3	20.8	13.3	9.1	15.2
DON'T USE A CAR FOR VACATION TRIPS	177	53	46	45	33	14	39	30	16	37	8	9	24
	11.8	14.0	11.8	10.5	11.0	13.6	14.2	11.8	11.9	11.7	7.1	16.4	9.8
DON'T COMMUTE TO WORK BY CAR AS OFTEN	165	55	32	37	41	19	36	15	17	30	7	13	28
	11.0	14.6	8.2	8.6	13.7	18.4	13.1	5.9	12.6	9.5	6.2	23.6	11.5
CUT DOWN ON THE NUMBER OF SHOPPING TRIPS BY CAR	728	194	206	191	137	46	148	125	81	143	48	31	106
	48.7	51.3	53.0	44.4	45.8	44.7	53.8	49.2	60.0	45.1	42.5	56.4	43.4
OTHER	23	6	9	8			6	6	3	8			
	1.5	1.6	2.3	1.9			2.2	2.4	2.2	2.5			
CAN'T SAY	167	49	46	39	33	15	34	27	19	31	8	4	29
	11.2	13.0	11.8	9.1	11.0	14.6	12.4	10.6	14.1	9.8	7.1	7.3	11.9
NUMBER OF INTERVIEWS	871	243	243	233	152	60	183	162	81	171	62	32	120

MEANS OF GETTING TO WORK BEFORE GASOLINE PRICES BEGAN TO INCREASE ABOUT A YEAR AGO
BASED ON DID NOT SAY NO MOTOR VEHICLE OWNED IN HOUSEHOLD

		ANNUAL HOUSEHOLD INCOME				OCC OF CHIEF WAGE EARNER					CITY SIZE				
	TOTAL	$20M &OVER	$15M- 19999	$10M- 14999	UNDER $10M	PROF & BUS	CLER/ SALES	MAN'L LABOR	FARM -ER	NON- LABOR FORCE	1 MIL &OVER	250M- 1 MIL	50M- 250M	2500- 49999	UNDER 2500
WEIGHTED BASE	2414 100.0	982 100.0	430 100.0	419 100.0	559 100.0	757 100.0	195 100.0	952 100.0	73 100.0	392 100.0	405 100.0	526 100.0	456 100.0	363 100.0	662 100.0
MEANS OF GETTING TO WORK BEFORE GASOLINE PRICE HIKES															
DROVE TO WORK ALONE	1660 68.8	764 77.8	299 69.5	287 68.5	297 53.1	591 78.1	149 76.4	735 77.2	31 42.5	129 32.9	255 63.0	380 72.0	329 70.8	239 65.8	463 69.9
DROVE TO WORK WITH OTHERS	301 12.5	123 12.5	75 17.4	44 10.5	54 9.7	70 9.2	22 11.3	172 18.1	1 1.4	31 7.9	40 9.9	55 10.4	73 16.0	57 15.7	76 11.5
USED PUBLIC TRANSPORTATION	143 5.9	61 6.2	45 10.5	19 4.5	18 3.2	66 8.7	21 10.8	39 4.1		17 4.3	54 13.3	46 8.7	33 7.2	5 1.4	5 .8
WALKED TO WORK	103 4.3	46 4.7	14 3.3	15 3.6	28 5.0	32 4.2	11 5.6	31 3.3	15 20.5	8 2.0	18 4.4	6 1.1	26 5.7	13 3.6	40 6.0
USED SOME OTHER MEANS	29 1.2	13 1.3	10 2.3	1 .2	5 .9	11 1.5		14 1.5	1 1.4	3 .8	4 1.0	12 2.3	1 .2	7 1.9	5 .8
CAN'T SAY	338 14.0	50 5.1	26 6.0	68 16.2	188 33.6	40 5.3	11 5.6	33 3.5	25 34.2	218 55.6	47 11.6	74 14.0	41 9.0	75 20.7	101 15.3
NUMBER OF INTERVIEWS	1397	582	246	244	312	467	100	495	45	265	257	302	296	211	371

MEANS OF GETTING TO WORK BEFORE GASOLINE PRICES BEGAN TO INCREASE ABOUT A YEAR AGO
BASED ON DID NOT SAY NO MOTOR VEHICLE OWNED IN HOUSEHOLD

		REGION				REGION IN DETAIL							
	TOTAL	EAST	MID-WEST	SOUTH	WEST	NEW ENGL'D	MID-ATLAN-TIC	EAST CEN-TRAL	WEST CEN-TRAL	SOUTH-EAST	SOUTH-WEST	ROCKY MOUN-TAIN	FAR WEST
WEIGHTED BASE	2414	608	666	670	470	147	461	424	242	473	197	99	371
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
MEANS OF GETTING TO WORK BEFORE GASOLINE PRICE HIKES													
DROVE TO WORK ALONE	1660	394	474	466	326	104	290	297	177	343	123	74	252
	68.8	64.8	71.2	69.6	69.4	70.7	62.9	70.0	73.1	72.5	62.4	74.7	67.9
DROVE TO WORK WITH OTHERS	301	73	80	106	42	16	57	55	25	66	40	3	39
	12.5	12.0	12.0	15.8	8.9	10.9	12.4	13.0	10.3	14.0	20.3	3.0	10.5
USED PUBLIC TRANSPORTATION	143	61	34	20	28	11	50	23	11	15	5	8	20
	5.9	10.0	5.1	3.0	6.0	7.5	10.8	5.4	4.5	3.2	2.5	8.1	5.4
WALKED TO WORK	105	24	24	22	33	4	20	11	13	8	14	5	28
	4.3	3.9	3.6	3.3	7.0	2.7	4.3	2.6	5.4	1.7	7.1	5.1	7.5
USED SOME OTHER MEANS	29	6	5	10	8		6	3	2	9	1	1	7
	1.2	1.0	.8	1.5	1.7		1.3	.7	.8	1.9	.5	1.0	1.9
CAN'T SAY	339	92	100	85	61	24	68	61	39	62	23	17	44
	14.0	15.1	15.0	12.7	13.0	16.3	14.8	14.4	16.1	13.1	11.7	17.2	11.9
NUMBER OF INTERVIEWS	1397	390	406	356	245	87	303	280	146	267	109	56	188

HAVE HIGHER GASOLINE PRICES ENCOURAGED SOMEONE IN YOUR FAMILY TO STOP DRIVING TO WORK ALONE
BASED ON DROVE TO WORK ALONE

		ANNUAL HOUSEHOLD INCOME				OCC OF CHIEF WAGE EARNER					CITY SIZE				
	TOTAL	$20M &OVER	$15M-19999	$10M-14999	UNDER $10M	PROF & BUS	CLER: SALES	MAN'L LABOR	FARM -ER	NON-LABOR FORCE	1 MIL &OVER	250M-1 MIL	50M-250M	2500-49999	UNDER 2500
WEIGHTED BASE	1660 100.0	764 100.0	299 100.0	287 100.0	297 100.0	591 100.0	149 100.0	735 100.0	31 100.0	129 100.0	255 100.0	380 100.0	323 100.0	239 100.0	463 100.0
HIGHER GAS PRICES ENCOURAGED SOMEONE IN FAMILY TO STOP DRIVING TO WORK ALONE															
YES	329 19.8	140 18.3	73 24.4	61 21.3	53 17.8	108 18.3	24 16.1	167 22.7	2 6.5	19 14.7	57 22.4	81 21.3	59 18.3	39 16.4	97 21.0
NO	1200 72.3	579 75.8	208 69.6	210 73.2	197 66.3	445 75.3	120 80.5	524 71.3	29 93.5	69 53.5	182 71.4	268 70.5	246 76.2	181 75.7	323 69.8
NO ONE DRIVES TO WORK	59 3.6	8 1.0	3 1.0	9 3.1	34 11.4	6 1.0		17 2.3		33 25.6	9 3.5	13 3.4	2 .6	8 3.3	27 5.8
CAN'T SAY	72 4.3	37 4.8	15 5.0	7 2.4	13 4.4	32 5.4	5 3.4	27 3.7		8 6.2	7 2.7	18 4.7	16 5.0	10 4.2	16 3.5
NUMBER OF INTERVIEWS	940	442	173	169	153	364	75	302	19	86	159	206	182	137	296

HAVE HIGHER GASOLINE PRICES ENCOURAGED SOMEONE IN YOUR FAMILY TO STOP DRIVING TO WORK ALONE
BASED ON DROVE TO WORK ALONE

	TOTAL	REGION				REGION IN DETAIL							
		EAST	MID-WEST	SOUTH	WEST	NEW ENGL'D	MID-ATLAN-TIC	EAST CEN-TRAL	WEST CEN-TRAL	SOUTH-EAST	SOUTH-WEST	MOUN-TAIN	FAR WEST
WEIGHTED BASE	1660 100.0	394 100.0	474 100.0	466 100.0	326 100.0	104 100.0	290 100.0	297 100.0	177 100.0	343 100.0	123 100.0	74 100.0	252 100.0
HIGHER GAS PRICES ENCOURAGED SOMEONE IN FAMILY TO STOP DRIVING TO WORK ALONE													
YES	329 19.8	97 24.6	75 15.8	86 18.5	71 21.8	23 22.1	74 25.5	51 17.2	24 13.6	76 22.2	10 8.1	23 31.1	48 19.0
NO	1200 72.3	276 70.1	355 74.9	335 71.9	234 71.8	74 71.2	202 69.7	226 76.1	129 72.9	233 67.9	102 82.9	49 66.2	185 73.4
NO ONE DRIVES TO WORK	59 3.6	7 1.8	18 3.8	25 5.4	9 2.8	2 1.9	5 1.7	9 3.0	9 5.1	23 6.7	2 1.6	1 1.4	8 3.2
CAN'T SAY	72 4.3	14 3.6	26 5.5	20 4.3	12 3.7	5 4.8	9 3.1	11 3.7	15 8.5	11 3.2	9 7.3	1 1.4	11 4.4
NUMBER OF INTERVIEWS	940	250	283	236	171	62	188	180	103	173	63	43	128

HOW PERSON WHO STOPPED DRIVING ALONE NOW GETS TO WORK
BASED ON SOMEONE HAS STOPPED DRIVING TO WORK ALONE

		ANNUAL HOUSEHOLD INCOME				OCC OF CHIEF WAGE EARNER					CITY SIZE				
	TOTAL	$20M &OVER	$15M- 19999	$10M- 14999	UNDER $10M	PROF & BUS	CLER/ SALES	MAN'L LABOR	FARM -ER	NON- LABOR FORCE	1 MIL &OVER	250M- 1 MIL	50M- 250M	2500- 49999	UNDER 2500
WEIGHTED BASE	329	140	73	61	53	108	24	167	2	19	57	81	59	35	97
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
HOW PERSON NOW GETS TO WORK															
RIDING WITH OTHERS	250	116	53	48	33	83	16	134	2	10	43	61	43	29	74
	76.0	82.9	72.6	78.7	62.3	76.9	66.7	80.2	100.0	52.6	75.4	75.3	72.9	82.9	76.3
PUBLIC TRANSPORTATION	45	17	8	11	7	16	5	18		4	11	19	9	5	1
	13.7	12.1	11.0	18.0	13.2	14.8	20.8	10.8		21.1	19.3	23.5	15.3	14.3	1.0
OTHER MEANS	31	8	10	5	8	9	3	17			3	2	7	4	15
	9.4	5.7	13.7	8.2	15.1	8.3	12.5	10.2			5.3	2.5	11.9	11.4	15.5
CAN'T SAY	12		5	2	5	2		5		5		4	1		7
	3.6		6.8	3.3	9.4	1.9		3.0		26.3		4.9	1.7		7.2
NUMBER OF INTERVIEWS	184	87	65	29	22	70	14	83	2	11	36	39	36	20	53

HOW PERSON WHO STOPPED DRIVING ALONE NOW GETS TO WORK
BASED ON SOMEONE HAS STOPPED DRIVING TO WORK ALONE

	TOTAL	REGION				REGION IN DETAIL							
		EAST	MID-WEST	SOUTH	WEST	NEW ENGL'D	MID-ATLAN-TIC	EAST CEN-TRAL	WEST CEN-TRAL	SOUTH-EAST	SOUTH-WEST	ROCKY MOUN-TAIN	FAR WEST
WEIGHTED BASE	329 100.0	97 100.0	75 100.0	86 100.0	71 100.0	23 100.0	74 100.0	51 100.0	24 100.0	76 100.0	10 100.0	23 100.0	48 100.0
HOW PERSON NOW GETS TO WORK													
RIDING WITH OTHERS	250 76.0	64 66.0	52 69.3	70 81.4	64 90.1	11 47.8	53 71.6	40 78.4	12 50.0	62 81.6	8 80.0	18 78.3	46 95.8
PUBLIC TRANSPORTATION	45 13.7	21 21.6	10 13.3	6 7.0	8 11.3	5 21.7	16 21.6	6 11.8	4 16.7	6 7.9		3 13.0	5 10.4
OTHER MEANS	31 9.4	7 7.2	10 13.3	10 11.6	4 5.6	2 8.7	5 6.8	4 7.8	6 25.0	8 10.5	2 20.0	3 13.0	1 2.1
CAN'T SAY	12 3.6	6 6.2	5 6.7	1 1.2		5 21.7	1 1.4	1 2.0	4 16.7	1 1.3			
NUMBER OF INTERVIEWS	184	60	44	43	37	12	48	30	14	36	7	13	24

PERCENT COULD CUT DOWN DRIVING WITHOUT AFFECTING NECESSARY TRIPS
BASED ON DID NOT SAY NO MOTOR VEHICLE OWNED IN HOUSEHOLD

		ANNUAL HOUSEHOLD INCOME				OCC OF CHIEF WAGE EARNER					CITY SIZE				
	TOTAL	$20M & OVER	$15M- 19999	$10M- 14999	UNDER $10M	PROF & BUS	CLER/ SALES	MAN'L LABOR	FARM -ER	NON- LABOR FORCE	1 MIL & OVER	250M- 1 MIL	50M- 250M	2500- 49999	UNDER 2500
WEIGHTED BASE	2414	982	430	419	559	757	195	952	73	392	405	528	456	363	662
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
PERCENT COULD CUT DOWN DRIVING															
0 PERCENT	560	177	96	109	178	155	27	214	19	131	113	92	97	76	182
	23.2	18.0	22.3	25.1	31.8	20.5	13.8	22.5	26.0	33.4	27.9	17.4	21.3	20.9	27.5
1 - 4 PERCENT	84	38	8	23	14	10	18	45		11	17	17	12	14	24
	3.5	3.9	1.9	5.5	2.5	1.3	9.2	4.7		2.8	4.2	3.2	2.6	3.9	3.6
5 PERCENT	222	84	49	31	57	61	27	93	10	29	36	48	28	40	70
	9.2	8.6	11.4	7.4	10.2	8.1	13.8	9.8	13.7	7.4	8.9	9.1	6.1	11.0	10.6
6 - 9 PERCENT	16	3	7	2	2	7		5	2	2	2	2	6	3	3
	.7	.3	1.6	.5	.4	.9		.5	2.7	.5	.5	.4	1.3	.8	.5
10 PERCENT	503	226	95	77	102	178	42	208	16	54	94	112	111	63	123
	20.8	23.0	22.1	18.4	18.2	23.5	21.5	21.8	21.9	13.8	23.2	21.2	24.3	17.4	18.6
11 - 19 PERCENT	138	66	19	34	19	38	12	66	9	13	25	42	18	13	40
	5.7	6.7	4.4	8.1	3.4	5.0	6.2	6.9	12.3	3.3	6.2	8.0	3.9	3.6	6.0
20 PERCENT	199	87	35	43	32	104	15	55	1	21	39	62	29	27	42
	8.2	8.9	8.1	10.3	5.7	13.7	7.7	5.8	1.4	5.4	9.6	11.7	6.4	7.4	6.3
21 - 24 PERCENT															
25 PERCENT	222	117	40	29	33	82	13	96	5	22	21	53	48	33	67
	9.2	11.9	9.3	6.9	5.9	10.8	6.7	10.1	6.8	5.6	5.2	10.0	10.5	9.1	10.1
26 - 34 PERCENT	95	50	18	11	16	31	14	28	6	15	8	16	19	24	28
	3.9	5.1	4.2	2.6	2.9	4.1	7.2	2.9	8.2	3.8	2.0	3.0	4.2	6.6	4.2
35 - 45 PERCENT	26	7	13	3	3	4	5	13		2	5	3	11	6	1
	1.1	.7	3.0	.7	.5	.5	2.6	1.4		.5	1.2	.6	2.4	1.7	.2
46 - 94 PERCENT	189	73	29	40	45	46	13	76	3	47	19	51	45	40	34
	7.8	7.4	6.7	9.5	8.1	6.1	6.7	8.0	4.1	12.0	4.7	9.7	9.9	11.0	5.1
95 PERCENT & OVER	63	30	4	5	24	26	6	23		8	11	10	14	7	21
	2.6	3.1	.9	1.2	4.3	3.4	3.1	2.4		2.0	2.7	1.9	3.1	1.9	3.2
DON'T KNOW	97	24	17	16	34	15	3	30	2	37	15	20	18	17	27
	4.0	2.4	4.0	3.8	6.1	2.0	1.5	3.2	2.7	9.4	3.7	3.8	3.9	4.7	4.1
NUMBER OF INTERVIEWS	1397	582	246	244	312	467	100	495	45	265	257	302	236	211	371

PERCENT COULD CUT DOWN DRIVING WITHOUT AFFECTING NECESSARY TRIPS
BASED ON DID NOT SAY NO MOTOR VEHICLE OWNED IN HOUSEHOLD

		REGION				REGION IN DETAIL							
	TOTAL	EAST	MID-WEST	SOUTH	WEST	NEW ENGL'D	MID-ATLAN-TIC	EAST CEN-TRAL	WEST CEN-TRAL	SOUTH-EAST	SOUTH-WEST	ROCKY MOUN-TAIN	FAR WEST
WEIGHTED BASE	2414 100.0	608 100.0	666 100.0	670 100.0	470 100.0	147 100.0	461 100.0	424 100.0	242 100.0	473 100.0	197 100.0	99 100.0	371 100.0
PERCENT COULD CUT DOWN DRIVING													
0 PERCENT	560 23.2	156 25.7	177 26.6	132 19.7	95 20.2	33 22.4	123 26.7	134 31.6	43 17.8	90 19.0	42 21.3	19 19.2	76 20.5
1 – 4 PERCENT	84 3.5	20 3.3	19 2.9	33 4.9	12 2.6	3 2.0	17 3.7	14 3.3	5 2.1	22 4.7	11 5.6		12 3.2
5 PERCENT	222 9.2	53 8.7	80 12.0	54 8.1	35 7.4	10 6.8	43 9.3	45 10.6	35 14.5	40 8.5	14 7.1	5 5.1	30 8.1
6 – 9 PERCENT	16 .7		10 1.5	6 .9				2 .5	8 3.3	6 1.3			
10 PERCENT	503 20.8	129 21.2	132 19.8	138 20.6	104 22.1	37 25.2	92 20.0	89 21.0	43 17.8	98 20.7	40 20.3	24 24.2	80 21.6
11 – 19 PERCENT	138 5.7	24 3.9	45 6.8	36 5.4	33 7.0	5 3.4	19 4.1	21 5.0	24 9.9	26 5.5	10 5.1	3 3.0	30 8.1
20 PERCENT	199 8.2	54 8.9	54 8.1	49 7.3	42 8.9	10 6.8	44 9.5	27 6.4	27 11.2	34 7.2	15 7.6	3 3.0	39 10.5
21 – 24 PERCENT													
25 PERCENT	222 9.2	54 8.9	40 6.0	77 11.5	51 10.9	19 12.9	35 7.6	20 4.7	20 8.3	56 11.8	21 10.7	19 19.2	32 8.6
26 – 34 PERCENT	95 3.9	18 3.0	17 2.6	40 6.0	20 4.3	3 2.0	15 3.3	12 2.8	5 2.1	23 4.9	17 8.6	3 3.0	17 4.6
35 – 45 PERCENT	26 1.1	7 1.2	5 .8	8 1.2	6 1.3	3 2.0	4 .9	5 1.2		7 1.5	1 .5		6 1.6
46 – 54 PERCENT	189 7.8	55 9.0	39 5.9	53 7.9	42 8.9	13 8.8	42 9.1	24 5.7	15 6.2	41 8.7	12 6.1	16 16.2	26 7.0
55 PERCENT & OVER	63 2.6	17 2.8	14 2.1	15 2.2	17 3.6	5 3.4	12 2.6	6 1.4	8 3.3	12 2.5	3 1.5	1 1.0	16 4.3
DON'T KNOW	97 4.0	21 3.5	34 5.1	29 4.3	13 2.8	6 4.1	15 3.3	25 5.9	9 3.7	18 3.8	11 5.6	6 6.1	7 1.9
NUMBER OF INTERVIEWS	1377	390	406	336	245	87	303	260	146	227	109	56	189

FEELING WHETHER A 50 CENTS PER GALLON TAX SHOULD BE IMPOSED ON GASOLINE TO ENCOURAGE CONSERVATION
BASED ON TOTAL SAMPLE

		ANNUAL HOUSEHOLD INCOME				OCC OF CHIEF WAGE EARNER					CITY SIZE				
	TOTAL	$20M & OVER	$15M- 19999	$10M- 14999	UNDER $10M	PROF & BUS	CLER/ SALES	MAN'L LABOR	FARM -ER	NON- LABOR FORCE	1 MIL & OVER	250M- 1 MIL	50M- 250M	2500- 49999	UNDER 2500
WEIGHTED BASE	2765	1003	445	483	806	786	231	1054	78	554	542	622	489	407	705
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
FEELING WHETHER 50 CENTS GAS TAX SHOULD BE IMPOSED															
STRONGLY IN FAVOR OF A 50 CENTS PER GALLON TAX	90	37	15	11	27	35	5	31	1	12	34	24	9	14	9
	3.3	3.7	3.4	2.3	3.3	4.5	2.2	2.9	1.3	2.2	6.3	3.9	1.8	3.4	1.3
SOMEWHAT IN FAVOR OF A 50 CENTS PER GALLON TAX	145	78	18	19	29	56	17	46	1	24	27	37	33	13	35
	5.2	7.8	4.0	3.9	3.6	7.1	7.4	4.4	1.3	4.3	5.0	5.9	6.7	3.2	5.0
I DON'T HAVE AN OPINION ON THIS ISSUE	297	45	51	60	139	55	27	105	7	93	56	81	41	51	68
	10.7	4.5	11.5	12.4	17.2	7.0	11.7	10.0	9.0	16.8	10.3	13.0	8.4	12.5	9.6
SOMEWHAT OPPOSED TO A 50 CENTS PER GALLON TAX	409	176	59	58	110	133	49	147	11	60	70	93	76	43	127
	14.8	17.5	13.3	12.0	13.6	16.9	21.2	13.9	14.1	10.8	12.9	15.0	15.5	10.6	18.0
STRONGLY OPPOSED TO A 50 CENTS PER GALLON TAX	1779	658	299	327	479	501	132	709	56	345	347	380	316	282	454
	64.3	65.6	67.2	67.7	59.4	63.7	57.1	67.3	71.8	62.3	64.0	61.1	64.6	69.3	64.4
NO ANSWER	45	9	3	8	22	6	1	16	2	20	8	7	14	4	12
	1.6	.9	.7	1.7	2.7	.8	.4	1.5	2.6	3.6	1.5	1.1	2.9	1.0	1.7
NUMBER OF INTERVIEWS	1572	394	255	274	433	483	114	540	47	354	321	355	272	230	394

FEELING WHETHER A 50 CENTS PER GALLON TAX SHOULD BE IMPOSED ON GASOLINE TO ENCOURAGE CONSERVATION
BASED ON TOTAL SAMPLE

	TOTAL	REGION EAST	MID-WEST	SOUTH	WEST	REGION IN DETAIL NEW ENGL'D	MID-ATLAN-TIC	EAST CEN-TRAL	WEST CEN-TRAL	SOUTH-EAST	SOUTH-WEST	ROCKY MOUN-TAIN	FAR WEST
WEIGHTED BASE	2765	762	742	749	512	170	592	482	260	529	220	99	413
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
FEELING WHETHER 50 CENTS GAS TAX SHOULD BE IMPOSED													
STRONGLY IN FAVOR OF A 50 CENTS PER GALLON TAX	90	36	16	15	23	3	33	11	5	9	6	4	19
	3.3	4.7	2.2	2.0	4.5	1.8	5.6	2.3	1.9	1.7	2.7	4.0	4.6
SOMEWHAT IN FAVOR OF A 50 CENTS PER GALLON TAX	145	48	36	33	28	11	37	23	13	25	8	7	21
	5.2	6.3	4.9	4.4	5.5	6.5	6.3	4.8	5.0	4.7	3.6	7.1	5.1
I DON'T HAVE AN OPINION ON THIS ISSUE	297	69	78	96	54	14	55	42	36	65	31	19	35
	10.7	9.1	10.5	12.8	10.5	8.2	9.3	8.7	13.8	12.3	14.1	19.2	8.5
SOMEWHAT OPPOSED TO A 50 CENTS PER GALLON TAX	409	95	129	126	59	25	70	77	52	90	36	9	50
	14.8	12.5	17.4	16.8	11.5	14.7	11.8	16.0	20.0	17.0	16.4	9.1	12.1
STRONGLY OPPOSED TO A 50 CENTS PER GALLON TAX	1779	505	468	460	346	117	388	317	151	328	132	60	286
	64.3	66.3	63.1	61.4	67.6	68.8	65.5	65.8	58.1	62.0	60.0	60.6	69.2
NO ANSWER	45	9	15	19	2		9	12	3	12	7		2
	1.6	1.2	2.0	2.5	.4		1.5	2.5	1.2	2.3	3.2		.5
NUMBER OF INTERVIEWS	1972	461	446	399	266	99	362	288	158	279	120	96	210

FEELING WHETHER A 50 CENTS PER GALLON TAX SHOULD BE IMPOSED ON GASOLINE TO ENCOURAGE CONSERVATION
BASED ON CAR OWNERS

		ANNUAL HOUSEHOLD INCOME				OCC OF CHIEF WAGE EARNER					CITY SIZE				
	TOTAL	$20M & OVER	$15M- 19999	$10M- 14999	UNDER $10M	PROF & BUS	CLER/ SALES	MAN'L LABOR	FARM -ER	NON- LABOR FORCE	1 MIL & OVER	250M- 1 MIL	50M- 250M	2500- 49999	UNDER 2500
WEIGHTED BASE	2407	982	429	418	354	757	193	948	73	390	404	527	454	382	660
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
FEELING WHETHER 50 CENTS GAS TAX SHOULD BE IMPOSED															
STRONGLY IN FAVOR OF A 50	63	33	15	7	6	30	1	19	1	12	17	20	9	8	9
CENTS PER GALLON TAX	2.6	3.4	3.5	1.7	1.6	4.0	.5	2.0	1.4	3.1	4.2	3.8	2.0	2.2	1.4
SOMEWHAT IN FAVOR OF A 50	127	72	18	16	20	55	14	39	1	18	17	34	31	11	34
CENTS PER GALLON TAX	5.3	7.3	4.2	3.8	5.6	7.3	7.2	4.1	1.4	4.6	4.2	6.5	6.8	3.0	5.2
I DON'T HAVE AN OPINION ON	210	44	44	42	50	43	21	93	6	37	27	57	31	38	59
THIS ISSUE	8.7	4.5	10.3	10.0	14.1	5.7	10.8	9.8	8.2	9.5	6.7	10.8	6.8	9.9	8.9
SOMEWHAT OPPOSED TO A 50	379	176	58	54	48	130	46	142	11	41	60	92	69	42	118
CENTS PER GALLON TAX	15.7	17.9	13.5	12.9	13.6	17.2	23.8	15.0	15.1	10.5	14.9	17.5	15.2	11.0	17.9
STRONGLY OPPOSED TO A 50	1603	648	291	295	227	493	111	645	52	275	280	321	306	278	433
CENTS PER GALLON TAX	66.6	66.0	67.8	70.6	64.1	65.1	57.5	68.0	71.2	70.5	69.3	60.9	67.4	72.7	65.6
NO ANSWER	25	9	3	4	4	6		10	2	7	3	3	8	4	7
	1.0	.9	.7	1.0	1.1	.8		1.1	2.7	1.8	.7	.6	1.8	1.1	1.1
NUMBER OF INTERVIEWS	1392	582	245	243	309	467	100	492	45	264	298	301	295	210	270

FEELING WHETHER A 50 CENTS PER GALLON TAX SHOULD BE IMPOSED ON GASOLINE TO ENCOURAGE CONSERVATION
BASED ON CAR OWNERS

	TOTAL	REGION				REGION IN DETAIL							
		EAST	MID-WEST	SOUTH	WEST	NEW ENGL'D	MID-ATLAN-TIC	EAST CEN-TRAL	WEST CEN-TRAL	SOUTH-EAST	SOUTH-WEST	ROCKY MOUN-TAIN	FAR WEST
WEIGHTED BASE	2407	607	663	669	468	147	460	422	241	473	196	97	371
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
FEELING WHETHER 50 CENTS GAS TAX SHOULD BE IMPOSED													
STRONGLY IN FAVOR OF A 50 CENTS PER GALLON TAX	63	22	12	11	18	2	20	7	5	5	6	4	14
	2.6	3.6	1.8	1.6	3.8	1.4	4.3	1.7	2.1	1.1	3.1	4.1	3.8
SOMEWHAT IN FAVOR OF A 50 CENTS PER GALLON TAX	127	37	31	31	28	10	27	18	13	23	8	7	21
	5.3	6.1	4.7	4.6	6.0	6.8	5.9	4.3	5.4	4.9	4.1	7.2	5.7
I DON'T HAVE AN OPINION ON THIS ISSUE	210	35	56	69	50	10	25	23	33	42	27	17	33
	8.7	5.8	8.4	10.3	10.7	6.8	5.4	5.5	13.7	8.9	13.8	17.5	8.9
SOMEWHAT OPPOSED TO A 50 CENTS PER GALLON TAX	379	89	119	118	53	25	64	69	50	84	34	9	44
	15.7	14.7	17.9	17.6	11.3	17.0	13.9	16.4	20.7	17.8	17.3	9.3	11.9
STRONGLY OPPOSED TO A 50 CENTS PER GALLON TAX	1603	421	434	431	317	100	321	297	137	312	119	60	257
	66.6	69.4	65.5	64.4	67.7	68.0	69.8	70.4	56.8	66.0	60.7	61.9	69.3
NO ANSWER	25	3	11	9	2		3	8	3	7	2		2
	1.0	.5	1.7	1.3	.4		.7	1.9	1.2	1.5	1.0		.5
NUMBER OF INTERVIEWS	1392	389	404	355	244	87	302	259	145	247	108	59	185

COMPOSITION OF THE SAMPLE

	Total Sample %
Total	100.0
Sex	
Male	48.0
Female	52.0
	100.0
Race	
White	89.3
Non-White	10.7
	100.0
Annual Household Income	
$20,000 and over	36.3
$15,000-$19,999	16.1
$10,000-$14,999	17.5
Under $10,000	29.2
Undesignated	.9
	100.0
Occupation of Chief Wage Earner	
Professional and Business: Professional, technical and kindred workers (e.g. engineers, accountants, nurses); Executives (e.g. managers, officials, proprietors, public administrators).	28.4
Clerical and Sales: Clerical and kindred workers (e.g. mail carriers, telephone operators); Sales and kindred workers (e.g. retail clerks, claims examiners).	8.4
Manual Laborers: Foremen, craftsmen and kindred workers (e.g. railroad engineers, machinists, linesmen, maintenance truck drivers, butchers, apprentices); Service workers; Laborers.	38.1

	Total Sample
	%
Farmers: Farm owners, farm managers, farm foremen, farm laborers.	2.8
Non-Labor Force	20.0
Undesignated	2.3
	100.0
Region of the Country	
EAST	27.6
New England: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut	
Middle Atlantic: New York, New Jersey, Pennsylvania, Maryland, Delaware, West Virginia, District of Columbia	
MIDWEST	26.8
East Central: Ohio, Michigan, Indiana, Illinois	
West Central: Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, Kansas	
SOUTH	27.1
Southeast: Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi	
Southwest: Arkansas, Louisiana, Oklahoma, Texas	
WEST	18.5
	100.0
Rocky Mountain: Montana, Arizona, Colorado, Idaho, Wyoming, Utah, Nevada, New Mexico	
Pacific: California, Oregon, Washington, Hawaii, Alaska	
City Size	
One Million and over	19.6
250,000-999,999	22.5
50,000-249,999	17.7
2,500-49,999	14.7
Under 2,500	25.5
	100.0

Mr. DOWNEY. Thank you, Mr. Perini.
Mr. Connors.

STATEMENT OF JERRY C. CONNORS, ON BEHALF OF THE AMERICAN AUTOMOBILE ASSOCIATION

Mr. CONNORS. Thank you, Mr. Chairman.

I am Jerry Connors, managing director of government affairs of the American Automobile Association.

AAA, with nearly 21 million members, appreciates the opportunity to voice our opposition to President Carter's imposition of a gasoline conservation fee.

AAA has two primary objections to the oil import fee. First, it will not conserve much gasoline. Second, it not only will not combat inflation, it will add to it.

In addition to these concerns, there are serious questions regarding the President's authority to impose this fee and to direct the impact of the fee to gasoline only. The President's plan, at best, is expected to produce savings of only 100,000 barrels a day, to use the administration's own estimate. That is a mere 1-percent drop in gasoline consumption.

The cost to the consumer? As Mr. Perini said, approximately $11 billion or about $300 for each barrel saved. A high price, we suggest, for such a meager result.

This so-called conservation fee is even tougher for Americans to swallow when one considers that they are already conserving gasoline and doing an admirable job of it. From 1978 to 1979 consumption dropped more than 400,000 barrels per day. In fact, figures for the first 11 months of 1979 show that the U.S. led the Western world in decreasing oil consumption.

Indications thus far for 1980 are that consumption is down as much as 10 percent over the similar period of 1979. These reduced consumption patterns will continue as gasoline prices rise further under decontrol and anticipated actions of the Organization of Petroleum Exporting Countries.

What is the reward for those who have conscientiously conserved? Another steep tax, heaped onto the already doubled price of fuel at the pump. All this for a small savings. For low- and fixed-income families, this is an added financial burden; an inelastic one for those in areas where access to alternate transportation is limited.

Bear in mind that more than three-fourths of the Nation depends solely on the automobile for work related travel. And that figure includes those participating in car pools. Gasoline usage is just not as flexible as the President seems to think.

Decontrol, though it too, increases prices, at least spreads the burden of higher prices more evenly. And we believe that American drivers can accept the logic of decontrol far more readily when increased prices are aimed at stepping up exploration of domestic sources, thus reducing U.S. dependence on foreign oil. Contrast this to the fee which does nothing to promote the search for increased domestic or alternative fuel supplies.

Even with these defects, one might be able to patriotically accept the administration's tax if it indeed would seriously help fight inflation. Unfortunately, it will have just the opposite effect.

The new tax on gasoline will, in itself, add a half percentage point to the Consumer Price Index. Wages, pensions, and social security benefits that are tied to the index will go up correspondingly. For many businesses, the expense will be figured into the final price with the usual markup tacked on.

It is bad enough that this punitive gasoline tax increase won't significantly reduce consumption and will significantly add to inflation. Even worse, the revenues derived from this fee most likely will become the quick-fix that will allow the President to balance the budget—an entirely worthy goal but not at the expense of motorists by means of a nonlegislated tax hike.

We also question the President's authority to impose this gasoline conservation fee and direct its effect only to gasoline.

AAA agrees that inflation must be controlled, but this is not the way to do it. Car owners are sharing the burden. All they ask is that any anti-inflation program be fair, rational, and have some hope of success.

In conclusion, AAA believes that the administration's gasoline conservation fee does little to promote conservation, does nothing to increase supplies and will contribute to inflation, hitting the hardest those motorists least able to deal with increased prices. It is not a conservation fee by the most liberal stretch of the imagination. It is, pure and simple, a tax to raise Federal revenue—revenue that has no officially declared purpose.

AAA, therefore, urges this committee's approval of House Joint Resolution 531 which would overturn the imposition of the fee.

[The prepared statement follows:]

Statement of Jerry C. Connors, on Behalf of the American Automobile Association

Good morning, Mr. Chairman. My name is Jerry C. Connors. I am managing director of government affairs for the American Automobile Association.

AAA, with nearly 21 million members, appreciates the opportunity to voice our opposition to President Carter's imposition of a gasoline conservation fee—a fee we feel is unjustified, ill-conceived and further contributes to the unfair share of energy conservation burdens motorists are asked to bear.

AAA has two primary objections to the oil import fee. First, it will not conserve much gasoline. Second, it not only will not combat inflation, it will add to it. In addition to these concerns, there are serious questions regarding the President's authority to impose this fee and to direct the impact of the fee to gasoline only.

The President's plan, at best, is expected to produce savings of only 100,000 barrels a day, to use the Administration's own estimate. That's a mere one percent drop in gasoline consumption.

The cost to the consumer? Approximately $11 billion or about $300 for each barrel saved. A high price, we suggest, for such a meager result.

This so-called conservation fee is even tougher for Americans to swallow when one considers that they are already conserving gasoline—and doing an admirable job of it. From 1978 to 1979, consumption dropped more than 400,000 barrels per day. In fact, figures for the first 11 months of 1979 show that the U.S. led the western world in decreasing oil consumption. Indications thus far for 1980 are that consumption is down as much as 10 percent over the similar period of 1979. These reduced consumption patterns will continue as gasoline prices rise further under decontrol and anticipated actions of the Organization of Petroleum Exporting Countries (OPEC).

What's the reward for those who have conscientiously conserved? Another steep tax, heaped onto the already doubled price of fuel at the pump. All this for a small savings. For low and fixed income families, this is an added financial burden; an inelastic one for those in areas where access to alternate transportation is limited.

Bear in mind that more than three-fourths of the nation depends solely on the automobile for work-related travel. And that figure includes those participating in carpools. Gasoline usage is just not as flexible as the President seems to think.

Where will the extra dime per gallon come from? Low and fixed income motorists will be hit hardest. There is little flexibility even in middle-income household budgets. Higher food prices, higher interest rates, heavy mortgage payments and the like have already taken a big bite out of the family budget. Add to this burden another $130 to $150 more each year for gasoline to save only about 13 gallons.

Decontrol, though it too increases prices, at least spreads the burden of higher prices more evenly. And we believe that American drivers can accept the logic of decontrol far more readily when increased prices are aimed at stepping up exploration or domestic sources, thus reducing U.S. dependence on foreign oil. Contrast this to the fee which does nothing to promote the search for increased domestic or alternate fuel supplies.

Even with these defects, one might be able to patriotically accept the Administration's tax if it indeed would seriously help fight inflation. Unfortunately, it will have just the opposite effect.

The new tax on gasoline will, in inself, add a half percentage point to the Consumer Price Index. Wages, pensions and Social Security benefits that are tied to the Index will go up correspondingly. For many businesses, the expense will be figured into the final price with the usual mark-up tacked on.

We might further point out that, according to the Department of Energy 107 people will be required to run this new tax program and those 107 people will cost the taxpayers $925,000 a year. That figure is on top of start-up costs of more than $1 million. Add to this the fact that a complicated entitlements program must be set up to divert the entire effect on the fee to gasoline and one must seriously question the Administration's priorities.

It is bad enough that this punitive gasoline tax increase won't significantly reduce consumption and will significantly add to inflation. Even worse, the revenues derived from this fee most likely will become the quick-fix that will allow the President to balance the budget—an entirely worthy goal but not at the expense of motorists by means of a non-legislated tax hike.

We also question the President's authority to impose this gasoline conservation fee and direct its effect only to gasoline.

Article I, section 7, clause 1 of the Constitution requires that revenue-raising measures originate in the U.S. House of Representatives. Clearly the President views the fee as a revenue measure and, just as clearly, it did not originate in this body.

Additionally, the fee violates two statutes. First, the President has claimed that the Emergency Petroleum Allocation Act (15 USC 751-753) gives him authority to divert the entire effect of the fee to gasoline. Actions of this nature are subject to the procedural rulemaking requirements of the Administrative Procedure Act (5 USC 553). These requirements have not been fulfilled.

The fee further contravenes congressional intent as it uses a tax to theoretically generate conservation. Provisions of the Emergency Energy Conservation Act of 1979 (42 USC 8501) clearly indicate that Congress does not favor additional taxes but specific conservation programs as prescribed in the act.

And while this fee won't do much for conservation or inflation it will adversely affect tourism and recreational travel, already experiencing a drop-off of patronage by automobile travelers of some 13 percent, our studies show.

AAA agrees that inflation must be controlled, but this is not the way to do it. Car owners are sharing the burden. All they ask is that any anti-inflation program be fair, rational and have some hope of success.

In conclusion, AAA believes that the Administration's gasoline conservation fee does little to promote conservation, does nothing to increase supplies and will contribute to inflation, hitting the hardest those motorists least able to deal with increased prices. It is not a conservation fee by the most liberal stretch of the imagination. It is, pure and simple, a tax to raise federal revenue—revenue that has no officially declared purpose.

AAA, therefore, urges this Committee's approval of House Joint Resolution 531 which would overturn the imposition of this fee.

Mr. DOWNEY. Thank you, Mr. Connors.

Mr. Nichols, let me ask you simply, it would be your association's position, then, that a tax of some sort that could be deducted or rebated would be preferable to this fee. Is that my understanding?

Mr. NICHOLS. Essentially, if we have to have an increase in the tax at all, we think it should be a specific tax on a gallon of gasoline, not a general tax in the sense that it is now. If we must have this fee, it should be short-lived and converted to a tax on gasoline by the gallon, an excise tax.

Mr. Downey. Mr. Perini, it would be my understanding from the statement that the Highway Users Federation would oppose any fee increase or tax increase; is that correct?

Mr. Perini. Our position is that we oppose the import fee imposed by the President. That is correct.

Mr. Downey. Would the Federation have any opposition to strict enforcement, let's say, of the 55-mile-per-hour speed limit?

Mr. Perini. As a matter of fact, the Federation has been very active in promoting the 55-mile-an-hour enforcement program, as well as car-pool/van-pooling. We feel that this measure makes a great deal more sense than the import fee.

Mr. Downey. I want to commend you all for your statements. Frankly, I think if we had a more vigorous program properly inflating tires, we would be saving more energy than this fee is going to save us, and this is one of the prime examples where hot air would serve more than a tax on conserving energy.

Mr. Conable?

Mr. Conable. I have no hot air.

Mr. Downey. Mr. Gephardt?

Mr. Gephardt. I have no questions.

Mr. Downey. Thank you all very much.

The committee would next like to hear from Ken Cory, the controller of the State of California, and Joe Cobb, the director of energy policy, Council for a Competitive Economy.

It is a pleasure and honor to welcome you, Mr. Cory.

STATEMENT OF WILLIAM F. NORTHROP, EXECUTIVE OFFICER, STATE LANDS COMMISSION OF CALIFORNIA

Mr. Northrop. Mr. Cory sends his apologies. Because of pressing business last night, he was unable to catch the Red Eye, and he is still in California.

My name is Bill Northrop. I am executive officer of the State Lands Commission of California, and with me is John Lamont, our Washington counsel.

I appear here this morning to emphasize three points. I would ask that Mr. Cory's testimony you have before you be submitted for the record, Mr. Chairman.

Mr. Downey. Without objection, your statement and all other witnesses' statements will appear in their entirety in the record. You may summarize his statements or make any additional comments you would like.

[Mr. Cory's statement follows:]

Statement of Kenneth Cory, Controller, State of California, and Chairman, State Lands Commission

I appear in strong support of the proposed Joint Resolution (H.J. Res. 531) to disapprove and suspend the President's imposition of a gasoline conservation fee taxing production of gasoline in the United States.

The President's program was announced as one to deter reliance on imported oils. We oppose it because it clearly does not discourage imports. Instead, it leaves in place highly rewarding regulatory incentives which encourage imports, and imposes no penalty on importers. Yet, since it is labelled as a "Petroleum Import Adjustment Program", it stands directly in the way of the development of the rational program on imports which we so desperately need.

Unfortunately, this Nation cannot survive for the near future without substantial use of some oil imports. It will take time to refit our refineries to handle the heavy crude oils and other hydrocarbons we have in abundance, which are undeveloped for lack of refinery markets. But there can be no possible dispute that we must begin now to reduce the political and financial costs of reliance on OPEC oil. The outflow of dollars for oil payments has reached the stage of a financial hemorrhage which has our economy in shock. The OPEC countries use our need of oil not only for their economic gain but also to control our international policies. And it is absolutely clear, whatever policy or dollar price we pay, we can trust for the future neither in the fairness nor in the mercy of those nations or the multinational companies which are now their junior partners. And we must therefore change our energy supply patterns drastically to reduce those imports which are most expensive and replaceable, to increase supply from domestic and non-OPEC sources.

This very real fear that our Nation's security is in jeopardy wholly justified the President and the Congress in their many declarations that we must reduce our import dependence. Yet, despite what the President has said, he has done nothing which will deter imports, or reduce import dependence. For if the courts or Congress do not enjoin the new "Petroleum Import Adjustment Program", it may raise a great deal of money from long-suffering consumers for the Treasury's benefit; it may somewhat discourage the use of gasoline; but, taken with other administration programs, it will actually encourage refiners to increase—not reduce—their use of imported oils.

Most important, however, it will also significantly deter and delay the development of a rational oil import program, one which admits those imports which are essential, bars those which can be replaced, and provides need and incentive for refinery refit. That is precisely the kind of program which Congress contemplated in delegating the national security control authority in Section 232 of the Trade Expansion Act of 1962, as amended. 19 U.S.C. section 1862. In this light, it is apparent that the Petroleum Import Adjustment Program is a cynical abuse of that authority, which the courts will enjoin as soon as they can penetrate the regulatory camouflage, if Congress does not act first.

We therefore support this suspension resolution. We however also urge that it be amended to suspend any Section 232 action on oil until there has been a good faith inquiry of the type contemplated by the statute.

We regret the further delay entailed, but there is no reasonable alternative. For, despite all of the post-embargo lip service to the need to reduce oil import costs, neither this nor any preceding administrations has taken the action necessary to investigate fairly the levels of imports which this Nation either needs or can tolerate, and to set controls accordingly. Until either Congress or the courts end this pathetic substitute for the needed control program, and compel the Administration to get on with the development of a rational control, it is clear that it will not do so.

Our belief in the probability of executive action is well-founded. For our concern with this is not recent. For well over two years, we have been importuning the federal authorities to take action under Section 232 of the Trade Expansion Act of 1962, as amended. 19 U.S.C. section 1862. As you know, that statute contemplates a thorough-going consideration of all aspects of national security in relation to imports, and an establishment of a control program tailored to meet the problems found.

Because of the diffuse and misleading delegations of presidential authority under that Act, it has been difficult to focus our efforts. Over two years ago, we asked the Department of Energy to change their entitlement program to reduce the heavy incentive encouraging imports of foreign crude oils, as part of their overall examination of import policy as the agency responsible for administration of existing oil import controls. Entitlement and tax incentives for imports, we urged, were directly contrary to the need to encourage additional production of the abundant domestic heavy oil reserves. For, so long as refiners are paid subsidies to import, there is no incentive for them to develop the added heavy oil refining capacity that is the essential prerequisite to a full-scale development of this Nation's heavy oil resources.

That Department refused to act. Our attentions were transferred to the Secretary of the Treasury, suddenly appearing as the official responsible for the conduct of inquiries pursuant to Section 232, including those on oil. On February 6, 1979, the Treasury published a notice stating that it had been secretly conducting an investigation of the imports of crude oil in relation to national security since March 15, 1978. 44 FR 7264. Asserting that it was interested in receiving public comments on the issues involved, which they set out in some twenty-five essay questions in an Annex, Treasury asked that the public respond on these grave and serious issues by February 20, fourteen days later. We asked that the period be extended to permit a more deliberate response to the questions, but no extension was granted. Instead, the weather effectively shortened the period, for you may recall February of 1979 saw several days of Government-wide snow holidays, including February 20.

Less than one month later, the Secretary of the Treasury reported to the President that oil imports had in 1978 achieved levels which were a threat to national security in relation to our balance of payments. It also noted that the domestic control program, particularly the entitlement program, was operating counter-productively in encouraging greater dependence on imported oils. The Secretary therefore formally reported that it was necessary to the national security that the President reduce oil imports below the level of 1978.

The President, however, quickly disagreed. Instead, he very shortly afterward issued Proclamation No. 4655 of April 6, 1979. 44 FR 21243. That Proclamation found that the shortages of crude oil in international commerce and the increases in their price made it an unwarrranted consumer burden to require payment of any fees discouraging oil imports. And he thereupon promptly suspended the payment of fees payable under the Eisenhower 1959 Proclamation, and authorized the Secretary of Energy to extend the suspensions for two additional six month periods, a suspension currently in effect until July 1, 1980. 44 FR 7224.

Again, in June, 1979, at the Tokyo economic summit, this government agreed that it would not permit imports to exceed the 1977 limits, a level considerably higher than the 1978 levels found by the Secretary of Energy to endanger national security. The President followed this with an address to the Nation on July 15, 1979, stating that he had determined that the 1977 levels were more appropriate, and that the Secretary of Treasury was to work out mechanisms to achieve the goal he had thus determined. In short, the President disagreed with the Treasury recommendation both as to levels of imports and immediacy of action required. The Secretary of Treasury promptly acted five months later, and called a joint hearing with the Department of Energy in November, 1979, to consider a series of alternatives for achieving the general import goal the President had set.

We participated in that hearing, and urged the need for a more rational approach to the exclusion of unnecessary imports, by first determining what imports were in fact currently unnecessary. We also at that time directly and formally requested the Secretary of Treasury to initiate Section 232 procedures to establish the national security protections we needed. As you will note from the attached correspondence, Treasury responded that it was glad we agreed with their view that oil imports were a threat, but that they had not time to undertake the inquiry required by statute. Particularly, note that they felt in December that the time required for an inquiry would "call into question our nation's resolve to deal forcefully with this critical problem."

During this same time, however, there was pending before the Congress a reorganization Plan transferring all of the Treasury's Section 232 authority to Commerce. Reorganization Plan No. 3 of 1979. This Plan became effective about two weeks after the Treasury response of December 14. Executive Order No. 12188, January 2, 1980, 45 FR 989. That Executive Order, at the same time, amended the old Eisenhower Proclamation No. 3279 of March 10, 1959, in order to restore to vitality an "Oil Policy Committee" with the Special Trade Representative as Chairman, with responsibilities for surveillance and recommendations as to oil imports.

While we were still trying to cut through the regulatory camouflage to find who was really responsible for the Section 232 powers, the President acted to establish the Petroleum Import Adjustment Program. That Proclamation still further complicated the delegation confusion. Its text indicated that he now relied on the 1979 report of the Secretary of the Treasury, which he had previously rejected implicitly at least twice, made no reference to any consultation with the Special Trade Representative or the Oil Policy Committee, and indicated that the Secretary of Commerce concurred in the proposal. The latter point is rather interesting, since at ast report, the Department of Commerce had not yet even issued interim regula-ions covering their newly-acquired Trade Expansion Act powers, and are in the rocess of establishing a staff to handle it.

Nevertheless, to avoid any delay that is not essential, we have formally requested he Secretary of Commerce to undertake the necessary Section 232 action. Our pril 17 letter, which is attached, has not yet been acknowleged or answered so that e can offer little hope that delay will be avoided.

There is probably no more serious problem confronting the Nation. Our economic tability, our way of life, our international policies are at stake because of the OPEC anditry. The President's action is a cynical effort to delude the public into thinking hat OPEC reliance is being reduced. It is not.

The subsidization of imports by entitlements and tax credits still continues. Cur-ently, the "entitlement credit" for imports is running very near to $5.25 a barrel. It is less easy to establish the exact subsidy inherent in the special tax rules allowing foreign royalties to be credited by American companies operating abroad as tax, instead of deducted as expenses; but it has been estimated that it is at least equal to the entitlement subsidy.

Our economy is still operated under the profit system. As long as the federal government kindly allows a far greater margin of profit in the industry's use of foreign oil than in domesitc heavy oil, it is a certain bet that imports will not decrease.

We need the establishment of a realistic limitation system, one which penalizes, not subsidizes, the imports we do not need. But to frame such a system requires careful deliberation, in which members of the public and of the industry should be allowed to participate openly. For, without a clear understanding of what controls are needed, we risk freezing the industry in patterns which may well plague us for decades, even as most of our current energy problems stem from prior administrative action.

The statute and common sense alike contemplate that imports will be specifically limited in such a fashion as to meet the true security needs of this country, rationally and carefully considered, not just in most general terms as a quick-freeze reflex. Such a quick-freeze would simply impose on this industry another layer of complex regulation above those so abundant as to be more cloak than control. And finally, the elimination of positive import incentives which exist under present rules, may obviate much of the need for administrative prohibition.

The long-term consequences of administrative limits on imports hastily set on a quantitative national basis without regard to immediate and future developmental needs cannot be underestimated. The West Coast experience with the 1959 Mandatory Oil Import Program is a prime example. That Program set limitations for District V separate from the rest of the country, under a formula ostensibly designed to protect national security. However, because that formula disregarded the peculiar competitive conditions of District V, the principal refiners could manipulate the formula in order to increase their imports year to year, in lieu of using the heavy oil domestically available.

They simply lowered the price of heavy crude oil to the point that discouraged its discovery and development. As domestic production decreased, imports increased under the formula, giving the principal importers not only cheaper oil but the added margin of profit allowed by the special tax incentives governing their foreign production.

Twenty years later, the heavy oil reserves in District V are neither fully explored nor developed, and that District is almost wholly separate from the rest of the country. Five years of effort to get the heavy oil price controls rationally adjusted is only now becoming successful. but even under the new pricing, heavy oil exploration and development will still be retarded by the fact that local refinery facilities are adapted to lighter foreign crudes, and cannot, without a substantial and time-consuming fit, handle those heavy crude oils efficiently.

Add to that the fact that no pipeline facilities exist to carry West Coast excess production to the rest of the country. The emergence of Alaskan production over the past two years with the special entitlement incentives has additionally crowded those refineries capable of handling heavy oil. The result is that any new administrative limitation on oil imports generally would probably have to be strongly biased regionally, at least for a time, just to offset the serious residual effects of the 1959 errors. Certainly, judgments to the proper levels of West Coast import cannot rationally be made until some decision has been made as to what compulsions and incentives are necessary for refinery retrofit and west-to-east pipeline construction.

These examples point up the need for very careful consideration of the impact which various national and regional levels and patterns of imports would have on the future base of energy supply. The statute, Section 232 of the Trade Expansion Act of 1962, as amended, provides a detailed specification of procedures to be followed in establishing national security limitations on imports, and the factors which are to be considered. That statute has not been followed and is not likely to be, unless the Congress acts to compel it. We urge that you do so.

CONTROLLER OF THE STATE OF CALIFORNIA,
Sacramento, Calif., April 17, 1980.

Hon. PHILIP M. KLUTZNICK,
Secretary of Commerce,
U.S. Department of Commerce, Washington, D.C.

DEAR SECRETARY KLUTZNICK: This letter renews an application of November 7, 1979 addressed to the Secretary of the Treasury, requesting the initiation of the investigation of oil imports required under Section 232 of the Trade Expansion Act of 1962, as amended. 19 U.S.C. § 1862.

This application is filed by me on behalf of the California State Lands Commission. The Commission's functions and responsibilities are directly and adversely affected by the level of oil imports and by the circumstances under which those imports are being admitted into the United States. It is clearly an "interested party" as that term is used in the Trade Expansion Act.

Despite the post-embargo concern with oil import costs, there has been no significant action either to control them or even to investigate the levels of imports which this Nation either needs or can tolerate. Indeed, nearly six months have elapsed since my original request. During that period nearly all aspects of our energy problem have deteriorated with accelerating speed, especially since the Iranian crisis. To date, however, no one has even begun the procedural steps essential to limit oil imports to the amounts the Nation must have, for the uses for which they are indispensable and from sources on which we can rely.

My letter of November 7th pointed out that there were substantial oil resources in the United States which had gone unexploited because some imports are more easily refined and more profitable under existing rules. These unexploited resources include a large reserve of heavy oil, much of which is in California. Even those heavy oil reservoirs already in production have not achieved their full potential, in part because of low profit margins and rising costs, in greater part because the lack of the refinery capacity necessary to process heavy oils effectively narrows the markets for such oils.

Neither those cost disadvantages nor the refinery inadequacies have been or will be eliminated until tax and regulatory policy ceases to subsidize the use of imports. Policy incentives and compulsions must be applied to encourage the installation of heavy oil refining capacity. At the same time, a sensible policy must recognize that various regions of the United States require imports of those types of lighter crude oils and products needed but not now available domestically.

These factors must be carefully and quickly balanced, as the statute requires, to form the basis of realistic and flexible import rules. None of these factors was explored in the previous "investigation" conducted by Treasury pursuant to Section 232 last year, the only such investigation arguably relevant to current controls.

The response which I received from the Deputy Secretary of the Treasury, in a letter dated December 14, 1979, indicated that no action was being taken on the application. All necessary action, he noted, had alraady been taken in the investigation completed prior to March 15, 1979. Shortly thereafter, all of the functions of the Secretary of the Treasury, under Section 232 of the Trade Expansion Act, were transferred to you. Reorganization Plan No. 3 of 1979; Executive Order 12188 of January 2, 1980, 45 Fed. Reg. 989 (January 4, 1980).

Against this background, the President, asserting his intention to act pursuant to Section 232 authority, recently imposed a "gasoline conservation fee." That order was ostensibly designed to reduce the imports of crude oil and gasoline by imposing an added cost on gasoline to the consumer. Presidential Proclamation 4744 of April 2, 1980; 45 Fed. Reg. 22864 (April 3, 1980). As that order is arguably unlawful and almost certainly ineffective to limit imports, effective action still remains to be taken, yet legally such action must await conclusion of Section 232 procedures. For while the authority delegated to the President under Section 232 is undoubtedly broad, it is also clearly limited by the complex procedures set out in the statute. See *FEA* v. *Algonquin SNG, Inc.*, 426 U.S. 548, 558–60 (1976).

Since the President's action is probably a legal nullity for its failure to comply with those procedures, it is essential to demonstrate the inadequacies in order to avoid them in this investigation. The Proclamation's findings note that the President's action relied upon the advice rendered by the Secretary of the Treasury on the basis of his statutory investigation begun in March, 1978, on the advice of the Secretary of Energy and with your concurrence. The Proclamation also declares that the Treasury investigation and findings "confirmed the results of previous investigations conducted in 1959 and 1975." In this, the findings pay lip-service to the basic statute.

As foundation for any action under Section 232 of the Trade Expansion Act, the Treasury's investigation was procedurally questionable. The statute explicitly requires that where public participation is appropriate, it must be allowed "after reasonable notice." 19 U.S.C. § 1862(b). Although the Secretary expressly found that such comments were fully appropriate, indeed desirable, 44 Fed. Reg. 7264 (February 6, 1979), the comment period provided approximately ten working days after publication to respond to roughly twenty-five complex issues. The allotted time was wholly inadequate and unreasonable under any interpretation of due process requirements. More importantly, the "investigation" was thereby deprived of input from those who will be most directly affected, and whose willingness to conform to the program is important to its success.

Beyond procedural inadequacies, it is apparent that the Treasury investigation was not the study contemplated by the statute. For, while it formally recites the statute's requirements in its formal conclusions, it nowhere else indicates that the principal, relevant factors were ever realistically examined. Thus, the Report and its annexed analysis give no recognition to regional variations in import needs, although such variations are clearly significant. For example, it is obvious that, until there has been a considerable improvement in the refinery capabilities in District V, the California air quality needs cannot tolerate a quick discontinuance of high-gravity, sweet crude oil imports. Similarly, the legislation sought by the President to permit coal replacement for residual fuel oil in East Coast utilities rather clearly indicates the existence of some problem in discontinuing residual oil imports into that region immediately. And the immediate problem of the Northern Tier States should the entry of Canadian oil be impeded, certainly justified explicit recognition in any serious report which purports to look to the substance of oil import problems.

The Treasury documents assume that all imports from all sources pose an equal threat to national security and thus an equal problem. The recent Presidential action discontinuing Iranian imports almost totally, should indicate that, in truth, there are different security considerations for each source, and sources even recently deemed secure are no longer to be regarded as dependable.

Again, the growing effort of certain importing refiners (such as Union Oil Company of California) to get administrative relief from the impact of the competition of other importers who have special access to specially priced foreign crudes, such as the Aramco partners have to Saudi Arabian crude, should have alerted Treasury that there are real differences in the competitive availability and cost in various geographical sources of similar oils. Indeed, the only Governmental action on this problem, dealing with the "circumstances" in which crude oil is being imported and the possible threat to sectors of the domestic energy industry, has been in administrative proceedings before officers of the Department of Energy, certainly an unusual exercise of Section 232 responsibilities.

Most importantly, Treasury failed to refer, in any useful sense, to the full range of government-granted incentives which make imported crude oils more profitable than domestic oils. This is obviously a "circumstance" of more than serious importance. Indeed, the Treasury report does refer to the import incentive which resides in the so-called entitlements subsidy.

But, most strangely, it wholly ignores the equal, if not greater, incentive which lies in the special adaptation of foreign "income tax" credits as an incentive. The 1950's action rewriting the Saudi Arabian royalty contracts as "income taxes" in order to give the producing companies an offset against their United States tax, has long been publicly discussed. Yet no reference appears to have been made in the Treasury report to that subsidy as affecting the profitability of imports of Saudi crude oil. Similarly, the recent ratification of the United States—United Kingdom Tax Treaty added the U.K. "Petroleum Revenue Tax" to the list of "royalty taxes", and shortly thereafter the United Kingdom became an important supplier of imports to United States. Since the negotiation, administration and termination of these tax incentives to import are the responsibility of the Treasury Department, it should not have been too much to hope that their imports investigation, if responsibly performed, would at least have noted those "circumstances".

Indeed, the pro forma and highly simplistic nature of the Treasury investigation is fully reflected in the President's response to the Treasury's "advice". Note first that the President's agreement with Treasury's conclusions as to the level at which imports threaten security is only doubtful and occasional.

The first indication of disagreement was the President's Proclamation No. 4655 of April 6, 1979. 44 Fed. Reg. 21243, (April 10, 1979). It found that international sources of crude oil for the United States economy were so scarce and highly priced that the national security required elimination of the existing fees which posed a barrier to their import. This order directly countered the recommendations, made by Treasury only three weeks earlier, that national security considerations were imperiled because existing imports were too high, and that the fee barriers to import must be increased.

In June, 1979, at the summit meeting of the industrial nations, the President formally agreed that by 1985 United States imports would not exceed the 1977 levels (8.79 million barrels per day) or the adjusted target level for 1979 (8.5 million barrels per day). He followed this with an address to the Nation on July 15, 1979, declaring that he had determined that the "import quota" would be set firmly below 1977 import levels and directing the Secretary of Energy and the Secretary of

Treasury to work out mechanisms to achieve the national security goal he had thus determined. Yet Treasury had earlier found that a different total level—the 1978 import level which was appreciably lower than the President's goals—should be regarded as dangerous to security. Indeed, the difference between the Treasury advice and the President's finding is far greater than the 100,000 barrels a day of import savings which is the goal of the President's new order.

These disparities between the Treasury's advice and the President's findings as to appropriate "levels" are also reflected in disparities concerning the advice as to threatening "circumstances". For example, the Treasury noted that the unneeded complexities of domestic price and allocation controls were, to a large extent, an incentive for imports and therefore a dangerous circumstance to be ended. Particularly, the General Counsel's analysis noted that

". . . the entitlements program, designed to equalize the price of imported and domestic crude oil to domestic refiners, has in fact encouraged oil consumption by indirectly subsidizing purchasers of foreign oil." *Treasury Department Report of Investigation under Section 232 of the Trade Expansion Act, 19 U.S.C. § 1862 as amended*, at 11.

At the time, the import subsidy was an "entitlements credit" involving a net payment to refiners using foreign crude amounting to $1.80 per barrel. In the interim, however, this subsidy has shot upwards until it was above $5.28 per barrel in January, 1980, and presumably it is even higher at present. Obviously the President's failure to take or direct any action concerning this very sizeable incentive, action which is well within his discretion under relevant statute, indicates a substantial disagreement with the Treasury advice.

While the superficial nature of the Treasury advice did indeed invite disregard, the President's action is, by statute, supposed to be shaped by the informed analysis which was then Treasury's responsibility, and is now yours. I should add that the inadequacies of the formal record are hardly to be overcome by the reference in the new Proclamation to the advice of the Secretary of Energy or the concurrence of the Secretary of Commerce. The Secretary of Energy has no direct part in the statutory procedure. Your concurrence, under the statute, is valid only to the extent your Department has carried out a responsible inquiry. However, it is not clear that any responsible, statutory Commerce inquiry has been conducted, nor, indeed, are there any extant regulations for the conduct of such an inquiry.

Neither does the new Proclamation's reference to the 1959 or 1974 Proclamation findings bootstrap this current effort. The 1959 finding, that oil imports were so cheap that they disrupted domestic production, is hardly a condition which prevails today. Moreover, the import "levels" and "circumstances" of 1974, leading to President Ford's abortive program for a $3 fee excluding imports, are scarcely relevant to findings concerning the current oil imports under current circumstances. Oil prices, sources and availabilities, as they affect national security, have most radically changed in virtually all dimensions since that time.

On this wholly insufficient basis, the President has purported to "adjust" crude oil imports by a most remarkable mechanism. Under the April 2 order (Proclamation No. 4744), consumers who are purchasing gasoline without knowledge of or control over the crude oil used in its manufacture, are to be penalized ten cents a gallon. The purchaser and importer of the crude who does have a choice whether it is imported, however, is to be held totally harmless against penalty under this new entitlement program. His initial advance of the "gasoline conservation fee" which he pays to the Treasury when he imports the commodity is to be fully repaid. At the same time, the importer, under the old and continuing entitlement program will still be given a subsidy to import the oil involved. And that is currently equivalent to more than $5.28 per barrel, more than thirteen cents a gallon for all of the products he makes from that imported barrel.

Considering that price increases of some seventy-five cents a gallon in gasoline over the past year and a half have not succeeded in diminishing either the volume or the proportion of imported crude oil used in its manufacture, it is highly unlikely that an added ten cents will be effective. Certainly there has been made available no economic impact analysis by economists within the government establishing that such reductions are substantially attributable to retail price increases. This is most particularly apparent when it is recalled that all of the special incentives which have led to the maximization of imports at the expense of domestic production still remain—principally the tax and entitlement subsidies.

There are, additionally, legal questions as to the President's use of gasoline allocation powers transferred to the Secretary of Energy under the Department of Energy Organization Act. Compare 42 U.S.C. §§ 7151 and 7191. Given the total monetary impact on the consumer, it is almost certain that this poorly-advised action by the President will be judicially challenged with a high likelihood of success. This, however, will involve still further delay. That is a luxury this Nation cannot afford.

It is therefore imperative that you immediately commence the full inquiry required by Section 232 of the Trade Expansion Act of 1962, to determine whether the particular imports of crude oil and its principal derivatives into the United States have reached levels which threaten industries important to national security, or whether particular imports are being made under circumstances which involve a security threat.

On behalf of the State Lands Commission, which is an interested party, I urge that you must find: (1) imports of high-sulfur, low-gravity crude oils particularly are at levels which involve a serious threat to the oil industry sector producing heavy crude oil, affecting directly the interests of the State of California and its Lands Commission; (2) that these and other imports dangerously destabilize our domestic economy by their artificially inflated costs; and (3) that there are important circumstances deriving both from regulatory and tax treatment which are responsible for this threat to the peace and security of the Nation.

Sincerely,

KENNETH CORY,
Controller, State of California.

CONTROLLER OF THE STATE OF CALIFORNIA,
Sacramento, Calif. November 7, 1979.

Hon. G. WILLIAM MILLER,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR SECRETARY MILLER: I respectfully request that you immediately commence an investigation as provided in section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 11862), of the circumstances under which crude oil and its products and derivatives are being imported into the United States.

As Chairman of the State Lands Commission of the State of California, responsible for oversight of state-owned oil production operations on California tidelands, I am a party directly and immediately interested in the effects of the imports into the West Coast of crude oil and its products and derivatives.

Your predecessor on his own motion undertook a general investigation of the level of those imports as a threat to national security. He concluded that the gross amount and cost of imports was a threat in that it placed the United States in reliance on distant, insecure sources. In addition, the effect on the national economy from the growing outflow of dollars was deemed dangerous.

That report does set forth in general the industries and products involved, the dollar values and quantities of imports.

However, it did not examine the forces which encourage dependence on foreign oil, nor did it permit a reasonable time for public comment on the issues, although the Secretary formally and properly decided such comment was essential. Moreover, no consideration has been given to the circumstances under which some imports into some regions of the country are necessary.

The entitlements program of the Department of Energy and the tax credit advantages available for foreign royalty payments under regulations administered by your Department both serve as strong incentive to continued reliance by American refineries on foreign sources for refinery needs. Furthermore, the effects of current events such as heavy oil deregulation and the windfall profits tax must be fully assessed if we are to respond in a manner calculated to enhance the national security.

Finally, such an investigation must result in a meaningful recommendation to the President. The limitation of particular crude and product imports into the United States from particular foreign countries requires that some study be undertaken to determine which imports are essential. Particular attention should be given to regional requirements. For example, until a program of refinery retrofit can be successfully completed, District V must have continued access to substantial amounts of light, low-sulphur crude or its refineries will be unable to produce the slate of products we require.

Additionally, attention must be given to determine which sources are least politically insecure and which are financially least damaging to the national economy. Once these factors have been evaluated, the President will be in a position to assess realistically and protect our national security needs by a rational program for reduction of imports, through controls if necessary

Sincerely yours,

KENNETH CORY, *Controller.*

THE DEPUTY SECRETARY OF THE TREASURY,
Washington, D.C., December 14, 1979.

Mr. KENNETH CORY,
State Controller, Sacramento, Calif.

DEAR MR. CORY: Secretary Miller has asked me to respond to your request that Treasury undertake a new investigation under Section 232 of the Trade Expansion Act of 1962 to determine whether oil imports into the United States constitute a threat to the national security.

Apparently you do not disagree with Treasury's March 1979 conclusion that oil imports do threaten to impair the national security. You express the view, however, that further steps under Section 232 to limit oil imports should be undertaken by the President only after a new investigation of issues such as the regional implications of oil imports, the effect of the entitlements program and tax credits, and the question of which oil imports are essential.

In the Treasury's view, the interests of our country would not be well served by delaying further steps to reduce oil imports. The March investigation met all requirements of Section 232. It clearly established the existence of a threat to the national security stemming from oil imports. Waiting for the results of another study, less than a year after the conclusion of the first study, would call into question our nation's resolve to deal forcefully with this critical problem. A number of the issues that you are concerned about are being considered in connection with the implementation of the oil import quotas, and your comments will be helpful in this work.

I might also note that the entitlements program is being phased out, and that we expect revised regulations relating to the foreign tax credit to be published before the end of this year. Recently, Secretary Miller recommended to the President that, in light of the situation in Iran, the United States cease importing Iranian crude oil. On November 12, 1979, the President issued a Proclamation prohibiting such imports. You can be assured that Secretary Miller will make a specific recommendation to the President as to what method should be used for implementing quotas on oil imports and as to other actions which might be taken by the President under Section 232.

In conclusion, I trust you will understand the Treasury's genuine concern about the oil import issues you raised. We believe such questions can best be examined in the context of considering specific steps by the President to reduce the level of oil imports into the United States.

Sincerely,

ROBERT CARSWELL.

Mr. NORTHROP. I would like to make four points to be brief.

First, I appear as a producer of crude oil because the State lands commission, of which I am the executive officer, produces over 15 percent of all crude oil produced in California.

And I come to appeal for some degree of rationality in oil imports regulation. The cliche is overworked, but the President's tax is a cruel hoax; it imposes no penalty on imports. As a matter of fact, we have seen the administration's program adds incentives to imports rather than any penalty that would decrease imports. These incentives include two I can think of immediately. One is the entitlements program which allows an over $5 benefit for the importation of crude oil, and the second is the foreign tax credit.

We can't damn the industry because they are going to do what is in their business interest. I firmly believe the only people who are in business because they are patriotic are in the U.S. Marine Corps. Everybody else is in business to make a profit, and that is as it should be.

But we need to look at the indigenous heavy crude oil in the United States. In 1963, according to the Department of the Interior, there were 50 billion barrels of heavy oil unexplored and undeveloped in the United States. Compared to Alaska's 15 to 20 billion, it is a significant amount. We need a thoughtful program that penalizes, not rewards, imports, if we are to get this heavy oil developed.

A horrible example of a poorly thought-out program existed in California after 1959. That was the mandatory oil import program which allowed imports of foreign production to increase while it allowed domestic production to atrophy.

So now there are millions of barrels of heavy California oil which are just now being considered for production, if it could be sold. However, the refineries are adapted to run light crude oil imports, and lack the hardware to refine this into marketable products.

So I think if we are going to have the needed refinery refitting, we need an import program that truly limits imports. It truly should limit imports, rather than, as the previous speakers have discussed, raise revenue, in this kind of tax program.

I thank you kindly for this chance to appear.

Mr. Downey. Thank you, Mr. Northrop.

Mr. Cobb?

STATEMENT OF JOE COBB, DIRECTOR OF ENERGY POLICY, COUNCIL FOR A COMPETITIVE ECONOMY

Mr. Cobb. Good morning, Mr. Chairman, members of the subcommittee. I am Joe Cobb, director of energy policy with the Council for a Competitive Economy. The council is a national membership organization of businesses and business people dedicated to the maintenance of a free market economy, distorted neither by taxes and regulations nor by protection, subsidies, and special privileges for business. I am speaking on behalf of our membership of over 1,000 companies and individuals nationwide.

In my testimony today I want to convince you that Congress should act on House Joint Resolution 531 to repeal the new gasoline tax and to reject the President's proposal for a permanent ad valorem tax on motor fuels. I am not here to support a tax in general, but to plead for exemption for my membership. I am here to oppose the tax altogether.

At the conclusion of my testimony, for the printed record, I have included a few comments on a proposed new tax on gasoline that Senator Bennett Johnston has introduced in the Senate, because my statement regarding the equity and justice of these gasoline tax proposals will apply equally to his bill.

I am going to abbreviate my remarks significantly because many of the points in the text are covered by the previous witnesses.

The main point of my argument is that gasoline should not be a special object for taxation during this energy policy crisis. Public policy should not be used to punish any special segment of the population, especially when the victims of the policy turn out to be the working poor. Gasoline is just as important as home heating oil and every other petroleum product; the free market alone should determine its price, not these punitive tax proposals.

Gasoline has become the policy "whipping boy" among petroleum products. Some people in Washington have decided that citizens can afford to cut down on automobile use, and they are going to make a public policy that will stoutly punish those people who do not cut down on driving.

The new gasoline tax proposals are a social engineering experiment, imposed by a Government elite, to make automobile driving more expensive. There is a mistaken idea that some petroleum products are more important, to the society as a whole, than others—and to reduce imported oil we must tax the "wasteful" ones. Free market prices reflect consumers' preferences and producers' costs in a social process based on voluntary transactions. In this process, interpersonal equity is preserved, and the true social value of resources is determined. Public policy, which supposedly reflects the common good, should also reflect the principles of common equity and justice; it should not be used as a device for punishing one segment of the population. The proposal for imposing a new tax on gasoline, as is shown in the tables in my testimony, is not only an unfair burden to the average citizen; its burden falls most heavily on the poor and disadvantaged.

Some Government policymakers seem to believe that only tourists and teenagers will be inconvenienced by higher gasoline prices, after new taxes. The evidence shows, however, that black, hispanic, and lower income white families are increasingly likely to depend upon their automobile to get to a job. With the recession coming, I think job preservation would be a prime policy objective of this Congress. From the viewpoint of equity, how can any Congressman or DOE Administrator make the judgment that auto drivers are less deserving of the right to spend their money to obtain a share of refined petroleum products than the consumer of heating oil? There are no data to support such a judgment. Economic theory clearly demonstrates that social utility will be maximized if consumers are permitted to choose individually among quantities of products on the basis of the true relative prices of those goods. A tax on gasoline reduces the ability of consumers to make an accurate choice. Public policy has no legitimate role to play in manipulating the decisions of consumers. Indeed, it would only serve to punish those who buy gasoline.

The conclusion one must draw from the tables in my testimony is that all workers, but especially low-income ones, will find it increasingly difficult to get to and keep their jobs, as a result of the increases in gasoline taxes.

Vacation travel is another instance where gasoline taxes might make the income distribution less egalitarian. Upper income tourists with high-valued alternatives for their time are more likely to travel to vacation areas by air. Lower income persons, by contrast, tend to drive their own automobiles to resort locations. Consequently, a gasoline tax is more likely to cancel the vacation plans of low-income persons than high-income persons. With a reduction in the number of vacations, the tourist and other highway-related industries which employ proportionally more lower-income service workers will be forced to cut back operations and lay off some of those workers as well.

In summary, the evidence on commuting patterns, vehicle ownership and vacation travel suggest that a gasoline tax will have a more severe impact on the working poor than on other households.

A point was raised earlier by a previous witness about whether the tax would be passed on, how much of the tax would be passed on, and so forth. I submit to you that in the next few months none of the tax will be passed on, at least for the industry as a whole.

During the week ended April 18, the primary gasoline inventories held by the oil industry were 50 million barrels—21 percent—higher than the level last year. Because of the current high carrying charges for inventories, holders will have a powerful incentive to release those large inventories at the slightest sign of a price increase. This will limit its magnitude.

Further, there is an indication that secondary stocks in the hands of dealers and jobbers are large, as are tertiary stocks being held by industrial, agricultural, and commercial consumers. While the magnitude is unknown, there are indications that they may be sizable. Since the announcement of the fee in March, gasoline consumption has been 6 percent below the level for the 6 weeks preceding the announcement—and 15 percent below the same period last year. Apparently consumers are not stocking up in advance of the presumed price increase, as one might expect. This, in turn, suggests that secondary and tertiary storage is already at the desired level. Thus, primary stocks and stocks held by jobbers and consumers as well will limit the amount that the gasoline tax can be passed on by gasoline producers. What I am saying is that people have anticipated this tax fully, and that the refiners that will have to pay it after May 15, will be unable to pass it on because the inventories will be released.

The result of the new gasoline tax on refiners is that the refining industry will suffer a financial disaster. Mark my words, the refining industry will be in here lobbying for financial relief from the consequences of this new gasoline tax, just as you know they are already lobbying for some sort of continuation of the special regulations that small refiners in particular have enjoyed for the past 7 years, now that the price controls on crude oil are being phased out.

Investment in the refining industry has been under pressure for several years, in spite of the growing demand for unleaded gasoline—which requires substantial investment in new facilities. The small refiner bias in the entitlements system has been perhaps the greatest disincentive for refinery investment in the past 7 years, but this at last may be phased out. The refining sector of the petroleum industry will not benefit from the decontrol of oil prices, because its costs will increase; what this means is that new investment to increase the yield of unleaded gasoline is not going to be made, at least to the extent that air quality standards would require.

The price of unleaded gasoline will increase faster than the price of regular gasoline, and automobile drivers will increasingly ignore the law and use regular gasoline because it will be cheaper. Air pollution will grow worse. This is exactly what happened in Los Angeles in 1979 following the gasoline lines.

To the extent that refiners have to absorb the impact of this new gasoline tax, investment in refining capacity will suffer and air pollution will get worse in many U.S. cities.

I will be pleased to answer questions.

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[The prepared statement follows:]

STATEMENT OF THE COUNCIL FOR A COMPETITIVE ECONOMY

Good morning, Mr. Chairman and Members of the Subcommittee. I am Joe Cobb, Director of Energy Policy with the Council for a Competitive Economy. The Council is a national membership organization of businesses and business people dedicated to the maintenance of a free market economy, distorted neither by taxes and regulations nor by protection, subsidies, and special privileges for business. I am speaking on behalf of our membership of over 1,000 companies and individuals nationwide.

In my testimony today I want to convince you that Congress should act to repeal the new gasoline tax and to reject the President's proposal for a permanent ad valorum tax on motor fuels. At the conclusion of my testimony, for the printed record, I have included a few comments on a proposed new tax on gasoline that Senator Bennett Johnston has introduced in the Senate, because my statement regarding the equity and justice of these gasoline tax proposals will apply equally to his bill.

The main point of my argument is that gasoline should not be a special object for taxation during this energy policy crisis. Public policy should not be used to punish any special segment of the population, especially when the victims of the policy turn out to be the working poor. Gasoline is just as important as home heating oil and every other petroleum product; the free market alone should determine its price, not these punitive tax proposals.

President Carter announced last March a complex plan to impose an import fee on crude oil and to raise gasoline taxes by 10 cents per gallon to focus specifically the impact of this restrictive levy. He has proposed that a permanent ad valorum tax on motor fuel be adopted by Congress. Senator Bennett Johnston, Chairman of the Energy and Natural Resources Committee, has declared the Administration's standby gasoline rationing plan will not work and has introduced a new tax bill, S. 2570, to slap a heavy tax on gasoline in the event of crude oil supply interruption. Gasoline has become the policy "whipping boy" among petroleum products. Some people in Washington have decided that citizens can afford to cut down on automobile use, and they are going to make a public policy that will stoutly punish those people who do not cut down on driving.

The new gasoline tax proposal is a social engineering experiment, imposed by government elite, to make automobile driving more expensive. There is a mistaken idea that some petroleum products are more important, to the society as a whole, than others—and to reduce imported oil we must tax the "wasteful" ones. Free market prices reflect consumers' preferences and produceres' costs in a social process based on voluntary transactions. In this process, interpersonal equity is preserved and the true social value of resources is determined. Public policy, which supposedly reflects the common good, should also reflect the principles of common equity and justice; it should not be used as a device for punishing one segment of the population. The proposal for imposing a new tax on gasoline, as will be shown below, is not only an unfair burden to the average citizen, its burden falls most heavily on the poor and disadvantaged.

Some government policymakers seem to believe that only tourists and teenagers will be inconvenienced by higher gasoline prices, after new taxes. The evidence shows, however, that black, hispanic, and lower-income white families are increasingly likely to depend upon their automobile to get to a job. From the viewpoint of equity, how can any Congressman or DOE administrator make the judgement that auto drivers are less deserving of the right to spend their money to obtain a share of refined petroleum than the consumer of heating oil? There are no data to support such a judgement. Economic theory clearly demonstrates that social utility will be maximized if consumers are permitted to choose individually among quantities of products on the basis of the true relative prices of those goods. A tax on gasoline reduces the ability of consumers to make an accurate choice. Public policy has no legitimate role to play in manipulating the decisions of consumers. Indeed, it would only serve to punish those who buy gasoline.

TAXING THE WORKING POOR

Because prices have risen so rapidly in the past few years, there is a common view that free market pricing of petroleum products somehow imposes an unfair burden on poor people. The statistical evidence, however, is clear that any new tax on gasoline will hurt the poor far more than a policy of free market pricing. In particular, the poor tend to own older, less fuel-efficient automobiles; they tend to live in the central cities and are using their cars more to get to the new jobs that are being created in the suburbs.

The purchase of automobiles, as indicated in the table below from the 1978 Statistical Abstract of the U.S. (page 656) strongly indicates that lower income families are more likely to own used automobiles than higher income families.

AUTOMOBILE PURCHASES PER FAMILY

Annual income	New autos	Used autos	Used/new
Under $3,000	0.027	0.097	3.6
$3,000 to $5,000	.047	.154	3.3
$5,000 to $7,500	.063	.201	3.2
$7,500 to $10,000	.092	.220	2.4
$10,000 to $15,000	.125	.232	1.9
$15,000 and over	.205	.204	1.0

It is also the case that the age of the autos in operation is increasing overall. In 1970 the largest automobile cohort was between one and two years of age. In 1975, the largest was two to three years of age, and in 1978 the largest cohort was between five to six years of age. (Source: R.L. Polk and Company, quoted in MVMA Motor Vehicle Facts and Figures 1979). This is not surprising given the government mandated cost increases for reducing fuel consumption. All this suggests that the lower income family is increasingly the owner of the older, hence the less fuel-efficient automobile. This in turn means that gasoline taxes will raise in particular the cost of operating older vehicles, mostly owned by lower-income families.

In 1975, the Bureau of the Census published a study entitled, "The Journey To Work" which sampled the commuting patterns of persons living and working inside and outside of SMSA central cities. The tables that follow indicate that city dwellers, who are generally at the lower end of the income spectrum, are almost as dependent as suburbanites upon the automobile to get to work. Even those who both live and work in central cities where public transit tends to be most readily available still depend in excess of 80 percent upon the automobile to get to work. Overall, less than 10 percent of the workers used public transit.

COMMUTING PATTERNS BY RESIDENCE AND PLACE OF WORK

[Inside and outside SMSA central cities, in percent]

Living	Working	Public transit	Drive alone	Car pool
Inside	Inside	6.0	21	6
Inside	Outside	.5	6	2
Outside	Inside	2.0	14	5
Outside	Outside	1.0	29	7
Total		9.5	70	20

The trends in commuting generally show that jobs are increasingly in the suburbs and declining in the central cities. The table below shows that in 1970, 41 percent of the workers' trips were to suburban jobs. In 1975, that percentage had grown to 46 percent.

COMMUTING CHANGES FROM 1970 TO 1975

[Inside and outside SMSA central cities, in percent]

Living	Working	1970	1975	Change
Inside	Inside	38.5	33.7	4.8
Inside	Outside	7.9	8.5	+0.6
Outside	Inside	20.3	20.4	+0.1
Outside	Outside	33.3	37.4	+4.1

This means that workers increasingly have jobs in areas where there are few public transit alternatives.

As the next table indicates, all commuters are reducing their use of public transit, especially those who both live and work in central cities. It should be kept in mind that motor fuel prices increased sharply between 1970 and 1975 because of the Arab oil boycott. Nevertheless, commuters were abandoning public transit in favor of the automobile.

WORKERS COMMUTING ON PUBLIC TRANSPORTATION

[Inside and outside SMSA central cities, in percent]

Living	Working	1970	1975	Change
Inside	Inside	9.3	6.1	-3.2
Inside	Outside	2.0	1.9	-0.1
Outside	Inside	0.8	0.5	-0.3
Outside	Outside	1.0	0.7	-0.3

The conclusion one must draw from the commuting study is that all workers, but especially low-income ones, will find it increasingly difficult to get to and keep their jobs, as a result of the increases in gasoline taxes.

Vacation travel is another instance where gasoline taxes might make the income distribution less egalitarian. Upper income tourists with high-valued alternatives for their time are more likely to travel to vacation areas by air. Lower income persons, by contrast, tend to drive their own automobiles to resort locations. Consequently, a gasoline tax is more likely to cancel the vacation plans of low-income persons than high-income persons. With a reduction in the number of vacations, the tourist and other highway-related industries which employ proportionally more lower-income service workers will be forced to cut back operations and lay off some of those workers.

In summary, the evidence on commuting patterns, vehicle ownership and vacation travel suggest that a gasoline tax will have a more severe impact on the working poor than on other households.

GASOLINE TAX: AN ALTERNATIVE TO RATIONING?

Because of the serious problems that a gasoline coupon rationing system would cause, particularly if implemented during a severe supply cutback, government planners are discussing a special tax to be imposed on gasoline consumption instead. The proceeds of the tax would be rebated to citizens, by changes in the Federal income tax. This scheme is suppose to achieve the same results as a coupon rationing plan with a "white market," which would permit those who cut back on driving to sell their extra coupons to those who need to buy more gasoline.[1]

The proposal to levy a special emergency tax during a fuel crisis raises two important questions: (1) will such a gasoline tax help solve the supply emergency in any way, or would it make the problem worse for everybody; and (2) what justification can there be to bestow windfall profits on people who do not need automobile transportation?

The argument of those who favor gasoline rationing is that a specifically planned government program can function with greater equity than a free market and assure scarce supplies of motor fuel to priority users. It has been demonstrated in our earlier paper that coupon rationing will not eliminate gasoline lines at the pumps nor prevent a dramatic increase in the cost of gasoline to those who really need it. It seems that this conclusion has influenced some members of Congress and planners at the Department of Energy. Senator Bennett Johnston has introduced S. 2570 as a substitute for gasoline rationing. The objective of this emergency proposal is to use economic logic to discourage consumption of gasoline during an emergency shortage of imported oil.

What is irrational about this proposal is that during a supply interruption, if the market is allowed to work, the price of gasoline will rise without any help from the government. People who need gasoline will clamber for the available supplies. As the price jumps, people who can conserve gasoline, delay travel, or use other means will stop trying to buy gasoline, leaving the available supplies to those with the greatest urgency. Truly, the poor working people who have to drive to their jobs will feel the pinch; but what will Senator Johnston's proposed emergency tax do? Yes, it will persuade some people to buy less gasoline—but it will extract blood-money from the working people who have to drive to their jobs. The idea of rebating the money collected by the tax just adds insult to injury. If the costs of collecting the tax are deducted from its revenues before the rebates are paid, then all that may seem to have occurred is some extra employment for DOE bureaucrats. But worse than getting back less then they have paid will be the realization that those who most need gasoline are being punished for the benefit of those whose needs are less urgent.

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[1] See the Council's *Issue Analysis*, "The Gas Rationing Myth," Mar. 14, 1980, for a discussion of the inherent unworkability of such a coupon rationing program.

THE FREE MARKET SOLUTION: MOST EQUITABLE AND EFFICIENT

The market price of gasoline will reflect the marginal demand for gasoline, and no doubt, in the short run, gasoline dealers will charge all the market will bear—if permitted. In the longer run, these sky-high prices will stimulate others to bring more gasoline to market, and prices will come down; but in the short run, equity requires that government policy not make the pain worse for those who need gasoline.

In terms of efficient energy planning, it is equally important that government policy also not attempt to lessen the pain by freezing prices or attempting to tax the suddenly higher prices. The most imperative objective during a sudden supply crisis should be rapid transition to whatever new state-of-the-world has developed. This rapid transition will have to be discovered at the time of the crisis; it cannot be detailed in advance by government planners. Most importantly, no segment of society can be held harmless from whatever harsh realities may exist following a sudden oil supply emergency. If politicians try to bailout their favored interest group, they will only make the problem worse for the rest of society.

The solution to a sudden interruption in the supply of imported oil can only be discovered by encouraging every member of society to engage in profit-seeking, entrepreneurial behavior to produce more energy; conserve fuel by eliminating less valued uses; and cooperate with others to distribute available fuel to those who want it most. This formula is exactly what the free market can achieve—and no government program can do it faster, cheaper, or with greater equity.

The final abomination in Senator Johnston's proposal for an emergency gasoline tax is the proposal to give much of its proceeds to people who do not drive automobiles or need to drive them during a supply crisis. The proposal would yield a windfall profit to many segments of society at the expense of the very people who are forced to suffer most of the pain of the emergency. The gasoline tax in the name of emergency planning turns public policy into an instrument for distorting the economy and distributing tax revenues virtually at random without any redeeming social gains.

Mr. Downey. Thank you, Mr. Cobb.

Mr. Northrop, have you, or anyone in the State of California, done a survey or study of the impact of this fee on your State.

Mr. Northrop. From the consumption point of view, Mr. Chairman?

Mr. Downey. Either consumption, inflation, economically; however.

Mr. Northrop. Not that I know of.

Mr. Downey. Mr. Conable, do you have any questions?

Mr. Conable. I have no questions, Mr. Chairman. Thank you.

Mr. Downey. Mr. Gephardt?

Mr. Gephardt. Just one.

Mr. Northrop, I have read quickly Mr. Cory's testimony, and I don't profess to understand all of it, but I take it from what he is saying, he believes we should be concentrating on limiting imports and encouraging the refining of heavy oil as opposed to taxing imports and thereby increasing the cost of gasoline. He admits the latter would have some kind of conservation effect, but not nearly the effect we need. It would do nothing to encourage the greater use of domestic oil as opposed to the importing of foreign oil. Is he saying through the Tax Code, the foreign tax credit and the entitlement incentive, we have encouraged the importing of oil over the use of domestic oil?

Would he not agree if we did all the things he said, and did them successfully that the cost of gasoline wouldn't go up under his plan as well?

Mr. **Northrop**. The cost of gasoine probably will go up under the program because of the cost of adding the additional equipment. For refineries to be able to make the same kind of product slate that we need, a heavy gasoline/diesel slate from heavy crude, rather than making residual fuel oil would have an incremental cost, but the cost would be different in two aspects. It would be an incremental cost for domestic product versus incremental cost on a foreign product. Second, the incremental cost of the refinery would probably stay in the United States rather than be exported. And I seriously doubt if the incremental cost would even approach what we are looking at here in the 10-cent-a-gallon tax; that is a great deal more of tax than the refinery refit cost.

Mr. **Gephardt**. I don't know what the figures are on how much heavy oil is around. Does he believe if we really focused on domestic heavy oil that we could turn around the ratio significantly of how much we import?

Mr. **Northrop**. Yes, as I mentioned briefly, in 1963, I believe, the Department of Interior indicated there were some 50 billion barrels of heavy oil in place. And that was in 1963, let alone what heavy oil has been discovered since then.

Mr. **Gephardt**. In the United States?

Mr. **Northrop**. Yes, and since the Alaskan North Slope oil is 15 to 20 billion you must recognize that it is a considerable amount of oil. In addition, the incentive for looking for heavy oil is not there; but if there was such an incentive for heavy oil, heaven knows how much would be found out there. But there has been no reason to look for it, and that which they have found has been found quite by accident.

In the recent sale to Shell Oil Co. of the Belridge property in the San Joaquin Valley, heavy oil in place was sold for $3.6 billion, or about $10 a barrel in place. That indicates that there is a market for heavy oil, and the refineries should be encouraged to produce that oil, not encouraged to import light foreign crude that allows them with very simple refining equipment to make a marketable product slate.

Truly, with heavy crude oil, in response to Mr. Cobb's remarks, we are able to handle it with refining equipment that is off the shelf, so that we don't have to go to sophisticated synfuel programs, and we can make 102-octane gasoline clear with that heavy crude. It is unfinished gasoline, and has to have some work done on it, but the black boxes exist today to make the conversion. It is not something we have to wait 10 or 15 years, as with a synfuel program.

Heavy oil is here now and makes a great transition to synthetic fuels.

I hope I have answered your question. I get emotional on the issue.

Mr. **Gephardt**. It is interesting testimony, and I appreciate it very much.

Mr. **Northrop.** Thank you very kindly.

Mr. **Conable.** May I ask, isn't it true that development of our heavy oil is going to go forward, anyway? It has reached the level of economic feasibility, and it is given special treatment in the windfall profits tax. So, it is entirely likely that the development of heavy oil is going to go forward regardless of what we do relative to the oil import fee?

Mr. **Northrop.** Mr. Conable, it is a matter of comparative economics. I think if we put a true block on imports, heavy oil will go ahead, but, again, the economics at the present time indicate it still is much more economic to run foreign crude than to run domestic heavy, and we see therefore a reluctance by the industry to install equipment that would handle the heavy oil.

I talked as recently as last week to one of the large oil companies on the west coast, and he indicated to me we could use heavy oil as soon as the comparative economics looked that way, but currently the economics don't look that way with the tax credit and the entitlement program.

Mr. **Conable.** I understand, and I don't disagree with you. I think the price of oil is going to continue to rise for a number of reasons, and as the price of oil, imported or domestic, rises, the economic feasibility of heavy oil becomes more and more apparent.

Mr. **Northrop.** Just to belabor it for one moment, we have at the present time a terrific glut of heavy oil and heavy fuel oil. We find heavy oil being discounted at $2 to $3 on the west coast because of these disincentives, while the incentive for imported light oil is still there. So an overall price increase doesn't help a bit.

Mr. **Cobb.** May I add a comment to follow on that immediately? The gentleman pointed out heavy oil sells at a discount. Mr. Conable pointed out heavy oil has a special incentive under the windfall profits tax. That is for the production of it, but the refining of it is where the capital investment is needed and the refining segment is the segment that will be crushed by this fee.

Mr. **Downey.** The committee wishes to thank all of the folks who have testified today. You have contributed much to the record, and you have educated us all.

Thank you very much.

The committee stands adjourned.

[Whereupon, at 11:20 a.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

OIL IMPORT FEES: THE ADMINISTRATION OF THE PROGRAM AND ITS IMPACT

WEDNESDAY, MAY 14, 1980

House of Representatives,
Committee on Ways and Means,
Subcommittee on Trade,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. Charles A. Vanik (chairman of the subcommittee) presiding.

Mr. Vanik. The subcommittee will be in order.

We have Secretary Miller with us this morning.

Mr. Secretary, we appreciate your taking the time to appear before the subcommittee to bring us up to date on the oil and financial situation. This portion of today's meeting will be part of our public record. We will proceed to mark up after you leave or after you make your statement.

As you know, there are many on the subcommittee who oppose the President's action. You have an uphill struggle.

In addition to your prepared remarks, I hope you can address two fundamental questions.

First, what will be the Government's response to the district court's decision and what impact will it have on Treasury receipts and tomorrow's previously planned increase in gasoline prices?

Second, if the program is allowed to go into effect by the courts and the prices go up and then Congress disapproves the President's action, how will the administration act to assure that the gasoline prices go back down and that the extra 10-cent charges collected by the oil companies are returned to the public?

With these two questions before you, Mr. Secretary, I invite you to proceed with your full statement and then any response you desire.

STATEMENT OF HON. G. WILLIAM MILLER, SECRETARY OF THE TREASURY

Secretary Miller. Thank you very much, Mr. Chairman.

I want to express my appreciation for the opportunity to be here on this important subject. I know that you are at a critical point in your deliberations and I consider it a privilege to try to add to those deliberations by pointing out some of the important factors that we think should be taken into account.

You have before you this question of blocking the implementation of the 10-cent gasoline conservation fee, which was imposed by the President on March 14.

As you know and as you just mentioned, Mr. Chairman, the implementation of the fee was enjoined yesterday by the U.S. District Court for the District of Columbia. The Government is appealing this decision.

I would like to come to your particular questions perhaps a little later and go on with my general comments now, but I would suggest to this subcommittee and I would urge this subcommittee that you consider deferring your action on this issue until the legal matters can be ascertained. It does not seem necessary for Congress to deal with the questions of substantive policies that are raised by the fee until the legal issues are clarified. But let me go ahead, in any case, to discuss the substantive issues themselves.

In doing so, I would like to be very direct. For far too long, it has been assumed that the United States lacks the basic political discipline to recognize and act on its own clear self-interest in limiting its consumption and importation of foreign oil. Without this discipline, our prospects for economic security, and for a vigorous and independent foreign policy, will be very limited.

Our prospects for exercising world leadership in any area of policy would be compromised. Leaving aside the legal question for the moment, for the Congress to reject the President's action to reduce our oil import dependence could only be interpreted as a flight from the hard economic realities faced by this Nation. The fee raises the price of gasoline by a mere 10 cents. Backing away from such a moderate and sensible step would send a very troubling signal to the American people, to the world financial markets, and to the governments of OPEC.

This gasoline conservation fee will have direct and important benefits: After approximately 12 months, it will cut our oil imports by about 100,000 barrels per day, and the savings will increase to about 250,000 barrels after 3 years. But the fee's importance transcends these direct benefits. The fee constitutes a clear test of our national will: Are we going to squeeze the fat out of our oil consumption and proceed in an orderly manner toward energy security over the new decade? Or are we going to leave our future prosperity and national security hostage to foreign events? The fee alone will not decide this watershed question—but it is rightly perceived as an important part of the answer.

There can be no serious question that this Nation's security is threatened by excessive oil imports. Formal findings to precisely this effect, pursuant to section 232 of the Trade Expansion Act of 1962, were made in 1975 by Treasury Secretary Simon and in 1979 by Treasury Secretary Blumenthal. In both cases, virtually every agency of the Government certified in detail the acute dangers posed to our international military, political, and economic interests by excessive oil imports. During all this time, our oil import bill has steadily escalated. The dangers have been multiplied.

The threat posed to our economic interest by oil import dependence was vividly dramatized by the explosion in world oil prices in 1979, triggered by the turmoil in world oil markets during and after the Iranian revolution. From December 1978 to April 1980, the average OPEC official price of crude oil on the world markets rose by 125 percent, from just under $13 to over $29 per barrel.

As in 1973, the impact of this price explosion on our economy was direct and momentous. The U.S. inflation rate last year soared to 13.3 percent measured by the CPI as the higher world oil prices coursed rapidly through our economy. More than 3 percentage points of that increase can be traced directly to the oil price explosion. This trend intensified in early 1980. During the first 3 months of this year, inflation rose to an annual rate of 18 percent, with higher energy prices directly accounting for roughly one-third of the increase.

Mr. Chairman, I would point out that I am talking about the almost direct impact of oil prices. There are the secondary and tertiary effects that add more to inflation.

The 1979 oil price explosion was the single most important factor pushing our economy into recession this year: It was the primary cause of the acceleration in inflation, and the consequent swift escalation in interest rates, and the massive drain of purchasing power which have combined to throw the U.S. economy into reverse gear.

The world's dependence on imported oil poses potentially serious problems for the international financial system. The oil exporting nations this year are likely to earn current account surpluses totaling $100 to $120 billion—larger than the GNP of most of the world's countries. The oil importing nations, of course, face an equivalent deficit. While the international financing requirements posed by these imbalances are huge, we believe the system can handle the recycling of these funds in the immediate future. But it would be highly imprudent simply to stand by and watch the world's oil bill and financing needs swell year after year.

A failure to stem oil imports would have serious consequences for our own efforts to achieve lasting improvement in the U.S. balance of payments and to maintain a stable dollar. In 1978, our oil bill was $42 billion for imports. Last year it was $60 billion. In 1980, we project it to rise to between $85 and $90 billion, in spite of an expected reduction in oil import volume.

Mr. Chairman, that means $25 to $30 billion more going out of this Nation this year than last year as the result of the tremendous explosion of oil prices. Congress is now struggling with cuts in the Federal deficit of $15 to $17 billion to balance the budget while $25 to $30 billion are exported to pay for this continued domestic requirement for imported oil. This mushrooming deficit is by far the largest single negative element in our balance of payments, threatening the stability of the dollar and thus our efforts to solve our domestic inflation problems.

The stability and strength of the dollar in the foreign exchange markets in recent months has a number of sound bases. But one of the major reasons is the growing perception around the world that the United States is at last moving aggressively to solve its energy problems. The President's decision to phase out oil price controls was a major step in building confidence in the dollar's long term prospects. This gasoline conservation fee is another such step. In both instances the world saw our system of government produce decisions in which long run economic good sense prevailed over well-entrenched political considerations. This was long-awaited good news that we had at last generated positive momentum in the energy area.

I would be happy to submit, Mr. Chairman, a series of clippings from foreign press where they hail the action as being statesmanlike and of critical importance to demonstrating the direction of U.S. policy.

A decision by the Congress to shift now to a more passive course would be extremely shortsighted. We would be mortgaging our hopes for more fundamental improvement in our economic prospects, replacing forward momentum once again with confusion and stalemate.

In this subcommittee and elsewhere, a number of questions have been raised about the fee. With your permission, Mr. Chairman, I would like to address the major ones.

One, why impose a fee when oil imports are already falling and world oil markets seem to be well supplied?

U.S. oil imports have indeed declined in volume terms, to an average rate of 7.4 mmb/d so far this year compared to 8.4 for the equivalent period last year. This is largely the result of the increase in world oil prices in 1979, which have encouraged conservation through greater energy efficiency and, less pleasantly, through a retardation of economic growth. World oil markets have eased, and spot prices have actually declined, as world consumption has fallen temporarily below the rate of oil production.

But it is sheer folly to assume that this will last or that the energy problem is somehow "solved." As we should have learned, world oil markets do not long remain in surplus. The medium term trends for the world oil supply are not propitious; our economic growth will resume; markets will likely be tight again well before the mid-1980's. It is precisely at times of market slack that the consuming nations face the danger of misreading a temporary quiescence of oil prices and of giving up on their conservation efforts. This is what we did for nearly 5 years after the 1973 oil shock. That is why we suffered so greatly when the next shock arrived, in 1979.

We must not repeat this error. This conservation fee is needed to communicate the inevitable to American consumers—that gasoline prices, over the long term, are going up and that oil conserving improvements must continue and accelerate, not be put in mothballs. To reverse this message would invite the same reversion to business as usual that paralyzed our energy policy through the last half of the 1979's.

Two, a second question: Isn't the fee inflationary?

As a technical matter, the gasoline fee will add about 0.5 percentage points to the 1980 inflation rate in direct terms, and perhaps another 0.3 percentage points indirectly over the longer run. However, without the fee, and the conservation psychology it will help sustain, we face the near certainty of even greater inflationary pressures over the longer term from a renewed surge in U.S. gasoline consumption and oil imports. The oil price increases that would result from such an increase in imports would not only add to inflation but also to our import bill. The fee revenues, by contrast, would stay at home.

All of the money from that fee has had a conservation effect but all of the resources have gone overseas.

A third question: With gasoline markets relatively soft, won't the fee in fact be passed on to other oil products, such as heating oil?

This question has been of particular concern to the subcommittee. I believe this concern to be misplaced, for several reasons:

First, the markets for heating oil and other oil products are if anything "softer" than the gasoline market. Refiners are now pricing heating oil and other uncontrolled products according to their own best economic advantage. We do not believe the fee will change their calculations. The heating oil market is exceptionally soft, with stocks at very high levels for this time of year. Thus, there will be little opportunity for refiners to pass through any of the fee to heating oil. The same is true for residual oil and other distillate products.

Second, the fee applies to imported gasoline, but not to imports of other refined products. Thus, competition from imported distillate products will tend to prevent refiners from being able to pass the fee through to products other than gasoline.

Third, the refining companies have notified the Department of Energy that the fee will be passed through to gasoline, not to other products. DOE has established a system to monitor the pass-through effects of the conservation fee. Secretary Duncan would be happy to appear and he has told me he would be pleased to report to you and to the Congress periodically the results of the monitoring so that you would be up to date on an ongoing basis and be satisfied that the fee was, in fact, being placed only on gasoline.

It is understandable, but shortsighted, for those who are concerned with heating oil prices to oppose the gasoline conservation fee. The conservation fee will help instill discipline in world oil markets and dampen further OPEC price increases. This will help moderate heating oil prices.

In summary, Mr. Chairman, I cannot stress too strongly my belief that it would be unwise for Congress to disapprove the President's decision to impose the gasoline conservation fee. Low gasoline prices are a major cause of our overconsumption of imported oil. By way of comparison, the tax on gasoline is $1.14 a gallon in Germany, $1.62 in France, and $1.83 in Italy. The conservation fee will increase gasoline prices in the United States by a dime. If we cannot do this, one can fairly ask: What precisely are we willing to do to meet the energy challenge?

[The prepared statement follows:]

Statement of Hon. G. William Miller, Secretary of the Treasury

Mr. Chairman, I appreciate the courtesy that you and the subcommittee have shown in agreeing to hear my testimony at this point in your deliberations.

You have before you the question of whether to block implementation of the ten cent gasoline conservation fee imposed by the President in March.

As you know, the implementation of the fee was enjoined yesterday by the U.S. District Court for the District of Columbia. The government is appealing this decision. While the matter is thus before the courts, I strongly recommend that the subcommittee defer its own review of the issue. The Congress need not deal with the questions of substantive policy raised by the fee until its legal status is clarified.

However, with your permission, I will take this opportunity to deal with the major substantive issues.

Let me be blunt: For far too long, it has been assumed that the United States lacks the basic political discipline to recognize and act on its own clear self-interest in limiting its consumption and importation of foreign oil. Without this discipline, our prospects for economic security, and for a vigorous and independent foreign policy, would be very poor. Our prospects for exercising world leadership in any area of policy would be compromised. Leaving aside the legal question for the moment, for the Congress to reject this measure to reduce our oil import dependence could only be interpreted as a flight from the hard economic realities faced by the nation. The fee raises the price of gasoline by a mere 10 cents. Backing away from such a moderate and sensible step would send a very troubling signal to the American people, to the world financial markets, and to the governments of OPEC.

This gasoline conservation fee will have direct and important benefits: after approximately 12 months, it will cut our oil imports by about 100,000 barrels per day, and the savings will increase to about 250,000 barrels after 3 years. But the fee's importance transcends these direct benefits. The fee constitutes a clear test of our national will: Are we going to squeeze the fat out of our oil consumption and proceed in an orderly manner toward energy security over the new decade? Or are we going to leave our future prosperity and national security hostage to foreign events? The fee alone will not decide this watershed question—but it is rightly perceived as an important part of the answer.

The oil import problem

There can be no serious question that this nation's security is threatened by excessive oil imports. Formal findings to precisely this effect, pursuant to section 232 of the Trade Expansion Act of 1962, were made in 1975 by Treasury Secretary Simon and in 1979 by Treasury Secretary Blumenthal. In both cases, virtually every agency of the government certified in detail the acute dangers posed to our international military, political, and economic interests by excessive oil imports. During all this time, our oil import bill has steadily escalated. The dangers have multiplied.

The threat posed to our economic interest by oil import dependence was vividly dramatized by the explosion in world oil prices in 1979, triggered by the turmoil in world oil markets during and after the Iranian revolution. From December 1978 to April 1980, the average OPEC official price of crude oil on the world markets rose by 125 percent, from just under $13 to over $29 per barrel.

As in 1973, the impact of this price explosion on our economy was direct and momentous. The U.S. inflation rate last year soared to 13.3 percent as the higher world oil prices coursed rapidly through our economy. More than 3 percentage points of that increase can be traced directly to the oil price explosion. This trend intensified in early 1980. During the first three months of this year, inflation rose to an annual rate of 18 percent, with higher energy prices directly accounting for roughly one-third of the increases.

The 1979 oil price explosion was the single most important factor pushing our economy into recession this year: It was the primary cause of the acceleration in inflation, the consequent swift escalation in interest rates, and the massive drain of purchasing power which have combined to throw the U.S. economy into reverse gear.

The world's dependence on imported oil poses potentially serious problems for the international financial system. The oil exporting nations this year are likely to earn current account surpluses totalling $100 to $120 billion—larger than the GNP of most of the world's countries. The oil importing nations of course face an equivalent deficit. While the international financing requirements posed by these imbalances are huge, we believe the system can handle the recycling of these funds in an immediate sense. But it would be highly imprudent simply to stand by and watch the world's oil bill and financing needs swell year after year.

A failure to stem oil imports would have serious consequences for our own efforts to achieve lasting improvement in the U.S. balance of payments and to maintain a stable dollar. In 1978, our oil bill was $42 billion. Last year it was $60 billion. In 1980, we project it to rise to between $85 and $90 billion, in spite of an expected reduction in oil import volume. This mushrooming deficit is by far the largest single negative element in our balance of payments, threatening the stability of the dollar and thus our efforts to solve our domestic inflation problems.

The stability and strength of the dollar in the foreign exchange markets in recent months has a number of sound bases. But one of the major reasons is the growing perception around the world that the U.S. is at last moving aggressively to solve its energy problems. The President's decision to phase out oil price controls was a major step in building confidence in the dollar's long term prospects. This gasoline conservation fee is another such step. In both instances the world saw our system of government produce decisions in which long run economic good sense prevailed over well-entrenched political considerations. This was long-awaited good news that we had at last generated positive momentum in the energy area.

A decision by the Congress to shift now to a more passive course would be extremely short-sighted. We would be mortgaging our hopes for more fundamental improvement in our economic prospects, replacing forward momentum once again with confusion and stalemate.

Questions raised about the fee

In this subcommittee and elsewhere, a number of questions have been raised about the fee. With your permission, Mr. Chairman, I would like to address the major ones.

Question 1. Why impose a fee when oil imports are already falling and world oil markets seem to be well supplied?

Answer. U.S. oil imports have indeed declined in volume terms, to an average rate of 7.4 mmb/d so far this year compared to 8.4 for the equivalent period last year. This is largely the result of the increase in world oil prices in 1979, which have encouraged conservation through greater energy-efficiency and, less pleasantly, through a retardation of economic growth. World oil markets have eased, and spot prices have actually declined, as world consumption has fallen temporarily below the rate of oil production.

But it is sheer folly to assume that this will last or that the energy problem is somehow "solved." As we should have learned, world oil markets do not long remain in surplus. The medium term trends for the world oil supply are not propitious; our economic growth will resume; markets will likely be tight again well before the mid-1980's. It is precisely at times of market slack that the consuming nations face the danger of misreading a temporary quiescence of oil prices and of giving up on their conservation efforts. This is what we did for nearly five years after the 1973 oil shock. That is why we suffered so greatly when the next shock arrived, in 1979.

We must not repeat this error. This fee is needed to communicate the inevitable to American consumers—that gasoline prices, over the long term, are going up and that oil conserving improvements must continue and accelerate, not be put in mothballs. To reverse this message would invite the same reversion to business as usual that paralyzed our energy policy through the last half of the 1970's.

Question 2. Isn't the fee inflationary?

Answer. As a technical matter, the gasoline fee will add about .5 percentage points to the 1980 inflation rate in direct terms, and perhaps another .3 percentage points indirectly over the longer run. However, without the fee, and the conservation psychology it will help sustain, we face the near certainty of even greater inflationary pressures over the longer term from a renewed surge in U.S. gasoline consumption and oil imports. The oil price increases that would result from such an increase in imports would not only add to inflation but also to our import bill. The fee revenues, by contrast, would stay at home.

Question 3. With gasoline markets relatively soft, won't the fee in fact be passed on to other oil products, such as heating oil?

Answer. This question has been of particular concern to the subcommittee. I believe this concern to be misplaced, for several reasons:

First, the markets for heating oil and other oil products are if anything "softer" than the gasoline market. Refiners are now pricing heating oil and other uncontrolled products according to their own best economic advantage. We do not believe the fee will change their calculations. The heating oil market is exceptionally soft, with stocks at very high levels for this time of year. Thus, there will be little opportunity for refiners to pass through any of the fee to heating oil. The same is true for residual oil and other distillate products.

Second, the fee applies to imported gasoline, but *not* to imports of other refined products. Thus, competition from imported distillate products will tend to prevent refiners from being able to pass the fee through to products other than gasoline.

Third, the refining companies have notified the Department of Energy that the fee will be passed through to gasoline, not to other products. DOE has established a system to monitor the pass through effects of the conservation fee. Secretary Duncan would be happy to appear before you to discuss this monitoring effort and to report the results to you on an on-going basis.

It is understandable, but short-sighted, for those who are concerned with heating oil prices to oppose the gasoline conservation fee. The conservation fee will help instill discipline in world oil markets and dampen further OPEC price increases. This will help moderate heating oil prices.

In summary, Mr. Chairman, I cannot stress too strongly my belief that it would be unwise for Congress to disapprove the President's decision to impose the gasoline conservation fee. Low gasoline prices are a major cause of our over-consumption of imported oil. By way of comparison, the tax on gasoline is $1.14 a gallon in Germany, $1.62 in France, and $1.83 in Italy. The conservation fee will increase gasoline prices in U.S. by a dime. If we cannot do this, one can fairly ask: What precisely are we willing to do to meet the energy challenge?

Secretary **Miller**. Mr. Chairman, you had asked two questions. Perhaps I should take a moment to answer those.

What is the Government's response to the court's decision yesterday? It will be the intention of the Government today to appeal that decision. I think you probably know that the decision upheld the President's authority to impose the import fee and upheld the decision that the fee was not a tax but a proper fee that could be imposed by the President on imports.

The court defined that the fee was not properly allocated to gasoline perhaps because of some limitation of powers or perhaps because of procedural defects. We intend to appeal this decision and to try to gain a reversal of those aspects of the opinion.

You asked what would happen in the meantime as to the fee itself that would otherwise be set in motion. It is our intention to seek a stay of the implementation of the restraining order insofar as it relates to maintaining the accrual of liability and the responsibility of importers and refiners to maintain the system intact but we would propose not to pass on the 10-cent charge to consumers and ask for an expedited hearing in the appeals court so we can decide this quickly and, therefore, not have the problem of trying to recapture the 10 cents in case the judge's opinion should be upheld. So I think we will proceed in this manner.

Mr. **Vanik**. Mr. Secretary, I wonder if you could just give the subcommittee a scenario of how this would be reflected in the price policies at the pump. What can we expect in the next several days? What can we expect in the period between now and the time the court should finally rule? What will happen as far as price policy is concerned at the pump?

Secretary **Miller**. What we expect to happen is the 10-cent charge will not be placed on at the pump, that we will seek an expedited decision of the court of appeals that could be taken care of very quickly. If the decision is overruled, as we believe it should be, then at that time the 10 cents would take effect.

Mr. **Vanik**. In the meanwhile you are collecting the fee?

Secretary **Miller**. In the meanwhile it is being accrued as a liability only. We will not collect it until this is determined.

Mr. **Vanik**. You are suspending both the collection at this point and the imposition of the fee until the issue is finally resolved by the court?

Secretary **Miller**. Correct. We would not collect money.

Mr. **Vanik**. Then there should not be any reason for any increase in the price of fuel at the pump during this period?

Secretary **Miller**. There should be none until this is decided.

Mr. **Vanik**. Excepting perhaps what might occur with respect to the operation of decontrol?

Secretary **Miller**. And what will happen from increasing world oil prices, which continue to go up, as you know.

Mr. **Vanik**. Mr. Secretary, can we balance the budget without the oil import fee? I know one of the obligations that the Budget Committee has put on this committee is to raise some additional revenues. My own feeling is that this effort will not be very successful either here or on the floor. I think we have a mandate to raise about $3¼ billion, if I am correct. Is that correct?

Secretary MILLER. Yes. In fiscal year 1980, if the fee had gone into effect tomorrow, our estimate would be about $3.4 billion in revenues would be received this year.

Mr. VANIK. On the oil import fee?

Secretary MILLER. On the oil import fee.

Mr. VANIK. Beyond that, I am talking about the balanced budget is based on a determination that the Ways and Means Committee will have to increase taxes by withholding interest and dividend income. I think there is grave doubt that that action will be approved either in the committee or on the floor. Now, if that should be the situation, what are the budget balancing needs for the oil import revenues?

Secretary MILLER. Let me go back to fundamentals. The administration's position is very clear that the import fee, the gasoline conservation charge, is intended solely as an energy policy. It does generate revenues but its purpose is energy policy. Therefore, the administration has taken the very strong position that the budget should be balanced for fiscal year 1981 without giving any consideration to the import fee, and the revised budget submitted by the administration contemplated a $16½ billion or $16 billion surplus. The fee would yield, depending on events, let's say, about $11 billion, so that even if the fee were eliminated, under our proposal there would still be a $5 billion surplus.

The surplus is generated, it is true, by some revenue measures including a proposal for withholding on interest and dividends that should yield about $3.4 billion. Those we will continue to seek. We continue to believe that to be wise policy, but the effort to balance the budget should be pursued in our view and should be accomplished in our view independent of the question of the gasoline conservation fee.

Mr. VANIK. Thank you very much.

Chairman Ullman.

Mr. ULLMAN. Mr. Secretary, when Secretary Duncan was before the committee in direct testimony on this same matter a couple of weeks ago, I raised the issue, as did a number of other members of the committee, both as to the authority for the mechanism used by the administration to transfer the effects of the import fee to gasoline, both domestic and foreign. At that time the Secretary was going to submit additional material. Since that time, I have not heard anything from the administration that would have changed my mind as to the very marginal nature of the action that was being taken in this matter.

Obviously, the court's decision has thrown further confusion on this issue. It is my judgment at this time that it would be the better course for the President to use some other alternatives rather than to continue to pursue this matter in the face of the questions that Congress has raised and in the face of the questions that the court has raised.

Secretary MILLER. Mr. Chairman, would you like for me to comment on that?

Mr. ULLMAN. Yes, you may comment on that.

Secretary **Miller**. Let me review the rationale of this particular decision. This is a decision to achieve conservation. It is a moderate decision to allow our economic system to absorb a moderate change that would send a signal of the importance of conservation and of our willingness to take decisions to achieve it.

The reason the President proposed using the entitlement system, so that the import fee falls solely on gasoline, is because gasoline represents the most discretionary use of oil and, therefore, the greatest opportunity for a pricing incentive, a higher price to result in less usage without imparting the standard of living or the needs of Americans.

To place the import fee on all oil products, which the court clearly said the President can do by just imposing a fee on imports, would result in increases in prices for other kinds of oil products—heating oil and so forth—where there is less discretionary use and more hardship.

In fact, if the President simply wanted to raise revenue, then he did not need to go through this procedure. He gets the revenue just from the import fee. But he went through the procedure because he wanted to have the greatest impact of conservation from the least amount of economic charge on our use of energy. So that is the rationale behind it.

The President's other choices would be to accelerate or to go for immediate decontrol of domestic crude oil prices which would result in higher prices and result in conservation. The difficulty with that is that it immediately results in higher oil prices for all products. So, while gasoline has the greatest discretionary use, the decontrol would result in an immediate impact on all prices.

The President has felt that phasing in those changes would allow our economy to adjust more smoothly to that kind of change.

Also, of course, the impact of decontrol would be higher prices, much of which would go into higher profits for oil producers and not into the same recycling of revenues that take place in the proposed import fee.

So there were some reasons behind it.

Mr. **Ullman**. Mr. Secretary, I am not going to take any more time except to say this: I have supported the import fee concept, and I think this committee has supported it, but we have supported it on the basis of the direct impact of imports on national security and the right of the President to put some limitations upon that through a fee that would directly relate to national security.

In this instance the President's authority is being used to set up a mechanism to put an import fee on imports to accomplish a purpose far different than was intended, in my judgment, by the act. That is an issue we have raised.

It is my understanding that even now the Energy Department does not know the nature of the mechanism that they could use in order to accomplish the purpose they seek, and that purpose is to put an import fee on the whole barrel of oil coming in, but then to change the application of that so that the impact would be 10 cents a gallon on gasoline. The two don't equate, so, there has to be a very complicated mechanism of tilting the fee toward gasoline instead of letting it flow through.

I think that is a problem that you face in the courts. That is a problem that deeply concerns us here. I am not going to ask you to comment except to say that, unless you choose to, as I said to Secretary Duncan, it would be my hope that you would try to accomplish the purpose that you seek, and I think it is a legitimate purpose, in a way that is not crowded by the kind of legal objections and authority questions that the Congress has raised as well as the courts.

Secretary **Miller**. Mr. Chairman, I appreciate your views on this. We certainly will give them careful weight.

The purpose, again, that the President was trying to achieve was if the same import fee were put on all imports without any other action, it is our view that there would be less conservation, so that the $11 billion charge on oil usage would end up saving less imported oil and contributing less to our national security. You may be right, but the purpose and the intent and the objective was to try to make the impact of the fee fall on the most discretionary use so that we could get the greatest reduction with the least hardship and least impairment.

Mr. **Vanik**. Mr. Shannon.

Mr. **Shannon**. Thank you, Mr. Chairman.

Mr. Secretary, I think many Members of Congress and certainly this committee share the concerns the chairman has about whether or not you have the authority to do this under the Trade Expansion Act and under the Emergency Petroleum Allocation Act. Of course, those are the issues in the lawsuit as well, but I think the concerns of most Members of Congress go way beyond that. They go to the question of whether or not the minimal conservation, even if we accept your figures, the minimal conservation that will result from this level of fee justifies the immense, $10 to $12 billion tax on consumers.

I think there is a feeling among those members that we did not philosophically buy the idea we have to go to higher energy cost, that the conservation we are going to see here does not justify that type of increased cost to consumers, does not justify the inflation we will see as a result of this. Would you comment on that?

Secretary **Miller**. Mr. Shannon, our view, of course, is the problem is as serious as this Nation has ever faced. In 1970, this Nation paid $3 billion to import oil. This year, we will pay $85 to $90 billion to import oil. Along the way, we have continued business as usual, believing that we could consume without restraint; that somehow there would be adequate supplies at reasonable prices, and history has proven us wrong.

We are going to have to face this as a major and critical national issue. There are only two ways I know to restrain consumption. One is to limit physical quantities available to individuals and business, to ration it; and the other way is to create a pricing mechanism that relates to the real value and the highest and best use and allows choices to be made so that the cumulative impact through millions and millions of decisions on a higher and better use of the oil product thereby assuring it is not wasted.

One of the places we waste oil most is in gasoline. We use 42 percent of all of our oil for gasoline. Forty percent of that is estimated to be in discretionary use, not needed for transport to work, not needed to produce economic transportation for business but just a personal choice.

Unless we can begin to attack that discretionary use either by rationing or by pricing, we are never going to change that trend of $3 billion going to $85 or $90 billion in one decade which, believe me, if it continues, will certainly bring the whole world economy into a very perilous condition.

May I report to you something that has just been handed to me. Since I began testifying this morning, after we came in here, the Dow-Jones News Service has carried a story that is attributed to oil industry sources that the Saudi Arabian Government has raised its oil prices by $2 per barrel retroactive to April 1. The State Department, I am told, is trying to get official confirmation, and we have not been able to receive it yet. But, if this information is correct, it is just another dramatic indication of how vulnerable we are to world oil prices.

Here is 5 cents a gallon—5 cents a gallon put on back to last April 1, and I suppose we are going to happily send the nickel abroad and say nothing about it. Will we be willing to put on 10 cents and keep the money ourselves and have the same impact and begin to proceed progressively to deal with it ourselves and get control of our own destiny?

Mr. SHANNON. Mr. Secretary, there are those who will argue, however, that the 10 cents a gallon add-on is going to encourage OPEC to raise its prices, if they see this as a sham, that they understand that we are not going to see only real conservation at this level of fee; that they see it is a measure to raise revenues and not to force conservation, and this is going to encourage them to raise prices.

Secretary MILLER. Quite the contrary. That is exactly the opposite of the effect, the effect of showing we are willing to take these hard decisions, even through they are politically difficult. The President is willing to take the responsibility and let Congress go its own way. But the result of that slowing down of use of oil, of gasoline and oil and the lessening of imports, will contribute tremendously to continuing the supply relationships in the world that will moderate the price increases of producers.

Mr. SHANNON. It is a fact, isn't it, Mr. Secretary, that when the President announced on March 14, the reimposition of the fee, he anticipated savings of 100,000 barrels a day. However, there were documents and statements within the Department of Energy that conservation would be considerably less than that? Isn't that true?

Secretary MILLER. I am not familiar with their documents. The document I am familiar with is the one I have cited.

Mr. VANIK. The time of the gentleman has expired.

The Chair recognizes Mr. Downey.

Mr. DOWNEY. Thank you, Mr. Chairman.

Mr. Secretary, let's be candid and serious for a moment. I am a supporter of President Carter. Frankly, if he had come to Capitol Hill with a proposal to save 100,000 barrels of oil for $10 billion through the appropriation means, he would have been laughed off the Hill. You are talking about reducing imports by 100,000 barrels a day when our dependence is 6.4 million barrels a day at a cost of $10 billion. Frankly, I don't understand it. I don't think it is going to achieve the conservation you are talking about, and I think it will exacerbate inflation far beyond what your predisposition is.

I understand that the President is proposing that in October of 1981 when the authority runs out to ask for a tax. Why didn't you ask for a tax in the first place and obviate all of the problems with respect to enforcement authority and the questionable authority in terms of imposing the fee?

Secretary **MILLER.** Mr. Downey, we very carefully consulted with Congress over the possibility of a gasoline tax. We found, and, incidentally, we talked in terms of a wide range of numbers—up to 50 cents a gallon. Fifty cents a gallon would mean $50 billion of revenue taken out of the economy which would have a negative impact. We considered the possibility of recycling that in terms of tax refunds that would offset it. So the conservation effect would apply on gasoline but by recycling it into the economy, we would avoid the reduction of purchasing power. We found that advice from the leadership, the chairmenship of the Appropriation Committees and the leadership and those we consulted with in Congress to be absolutely unwilling to consider a gasoline tax for conservation.

The President has authority under the Trade Export Act to impose a fee to accomplish the same purpose. He elected to do so on his own initiative because he did not find that Congress was willing to proceed.

Mr. **DOWNEY.** Then the curious question arises, I assume then that in October of 1981 the climate will be a lot different for the imposition of the tax than it is in 1980? Was that your thinking?

Secretary **MILLER.** No, I think this is very simple.

The President has authority until September 30, 1981, in our view, to use the entitlement system to allocate this to gasoline. At that point it would end.

Congress, in the meantime, could work its will. It has given the President this authority we are now using. If he uses it for this effect, it has the purpose we intend.

If his authority expires, then he can no longer use it and Congress would either have to decide to put in a tax as a substitute or the President could decide to continue the fee but it would apply to all oil products. I don't think we want to prejudge what the Congress wants to do, because what we are going to propose is that the best place to get conservation is on discretionary use of oil which is gasoline.

Mr. **DOWNEY.** I have a little bit of a difficult time explaining to my constituents on Long Island about the discretionary use of gasoline with respect to price. They are already paying the highest prices in the Nation for gasoline. They are, frankly, very upset and very angry when they take a look at the President's emasculation of the solar bank, and the fact that there is essentially no real growth in mass transportation. Why wouldn't you take this fee and earmark some of it for mass transportation or for beefing up programs for insulation and weatherization, and the like? It would seem to me it would make our job a lot easier, explaining to people why we don't want them to use their automobiles, if we stand ready, willing, and able to provide mass transportation alternatives. The administration has not done that. It makes our job twice as hard.

Secretary **Miller**. The whole energy program of the administration includes strong components for public transportation over the coming decade.

Mr. **Downey**. Why wasn't that reflected in this year's budget?

Mr. Secretary, we talk about strength and we talk about courage and we talk about strong commitments. The reality is that there is less money in real dollar terms next year for mass transportation than there was last year. There is essentially no money for expanding the solar bank. How does that comport with strong measures?

Secretary **Miller**. We could debate those in a separate hearing. We feel that the programs in both these cases are laid out on a long-term basis that is consistent with the program for consideration which we agree with, and you may disagree on the choice of years and the buildup, but over the period of time we are talking about, very large amounts of money are being contemplated and proposed in our forward plans for public transportation. I certainly concur with you. It is very badly needed.

Mr. **Vanik**. The Chair recognizes Mr. Moore.

Mr. **Moore**. Thank you, Mr. Chairman.

Mr. Secretary, it seems this administration and others, in the past, once it comes to putting out figures to support their position, are very liberal as to the ones that they cite to support their position, and very conservative in dealing with those that attack it.

Your 100,000-barrels-per-day savings figure, by virtue of this fee, is one I think to be very liberal, and I agree with my colleague from Massachusetts, Mr. Shannon, in that regard.

But even accepting your figure of 100,000 barrels a day, that comes out to one-half of 1 percent of our daily consumption of oil—only one-half of 1 percent.

The question I have is, if you are so sold on this being the device to use and you are so sold on your having the power to do this, notwithstanding the court's decision or the feeling of the Congress as expressed by the chairman of the full committee, why didn't you establish a 50-cent-a-gallon fee and really do something about conservation instead of 10 cents?

Secretary **Miller**. Let's go through the possibilities.

For one, it is the cumulative effect of all factors that will influence this price and this conservation. The Nation was already facing and has faced more than a 100-percent increase in oil in the last 15 months, so that you already have the impact of the large price increase, all going abroad, that is creating conservation, but all of which is imposed from abroad.

The President has also taken the decision, as you know, in April of 1979 for the phased decontrol of domestic crude oil prices which also phases in additional price increases. The increases recognize replacement value of oil and gasoline and will begin to affect the pump price.

So, considering what was happening from foreign oil price increases, what was happening domestically, this 10 cents was selected as an additional incremental effort that will yield the figures that we cite, building up to 250,000 barrels per day, and it seemed to us to be an absorbable, reasonable progression to add to the conservation of the most discretionary use.

The decontrol of oil domestically affects all oil prices. To speed that up in order to hit gasoline would be causing the rest of the economy to be impacted too much. So that was not a good choice.

We do not want to invite the foreigners to raise their price more. We want to try to hold them down. So the way to do that, it seemed to us, was this effort.

You are correct. If we wanted to be more forceful in terms of conservation, we could add a bigger number but that means more inflation, more purchasing power pulled out of the economy, and this was considered by us to be a prudent, single step—moderate, but to send a single, and, as I say, I can quote you from the overseas press of how many editorials say at last the United States has shown it is willing to do some of the things, modest though they are, that Europeans have been doing for a long time.

I read you the taxes that are imposed in Europe on gasoline. This is a step. Perhaps it is not the last.

Mr. **Moore**. You have not convinced me. I think that is a rather weak explanation. If you are so convinced this is the way to save gasoline and if you are so convinced that the President has the power to do this and you are willing to take the political heat and wrath of the American people for 10 cents, why not do something that would accomplish something. Fifty cents or a dollar a gallon would put us in line with the countries you cited. Your testimony leads us to believe if we can't accept only a dime, what can we do?

My point is, you are not asking us to accept anything. You are telling us you have the power to do it and you have bitten the bullet. Why didn't you do something meaningful?

Secretary **Miller**. Mr. Moore, the Chinese have a very interesting saying that a journey of 10,000 miles begins with a single step. We don't have to take all the steps the first day and this is a step.

Mr. **Moore**. Gasoline consumption is already down 8 percent over last year. We are already taking steps.

Secretary **Miller**. Let's get it down another 1 percent. Let's get it down another 2 percent. Cumulative impact is what counts.

Mr. **Moore**. Mr. Secretary, why not gasoline decontrol? Why not let the market bring the price to what it should be? Why has the administration used a matter that is probably illegal, and the court has already held that. Why not decontrol gasoline, which is something that could be done and should be done?

Secretary **Miller**. Then the argument would be that decontrol would result in higher prices to the consumer. I don't know if Congress would like that where the result would be that the higher prices would be merely higher profits to the producers who already have large profits. I don't know if that would be the most acceptable choice.

Mr. **Moore**. The Library of Congress also says that your figures on the inflation rate are somewhat conservative. It is more like 1 percent, and the $11 billion that this tax will raise to help balance the budget—we believe an administration cut just in time for the elections—that balanced budget will bring down inflation by something less than 1 percent. So, it appears to me you have an oil import fee that is illegal, that has no real impact on energy conservation and will undo what the balanced budget will try to do in cutting back the Consumer Price Index.

Mr. VANIK. The time of the gentleman has expired.

Do you want to answer that, Mr. Secretary?

Secretary MILLER. The purpose of balancing the budget is a far deeper purpose.

Four years ago the United States was running a deficit of $66 billion and borrowed $83 billion in the capital markets, representing 26 percent of all the capital raised.

The effort to begin to reduce the Federal role in the economy and to release the capital markets more for the private sector in order to create conditions for financing investment with the prospects for productivity gains is a far deeper objective than the one-shot result of the exercise itself. We need the discipline to reestablish that we will control Federal spending and not reescalate up to where we are taking over a quarter of all of the capital in the Nation. That is the issue.

Mr. VANIK. The Chair recognizes Mr. Gibbons.

Mr. GIBBONS. Thank you, Mr. Chairman.

Mr. Secretary, I want to commend you and the administration for doing a sensible thing and a brave political act. I know it is very easy to find fault with any positive step that is taken and I hope that the people who are finding fault now will come forward with a positive program of their own if they succeed in defeating your effort.

But I agree with you, and I want your observations on this.

As I see it, we have a very long-term chronic problem as far as petroleum is concerned, and our marketplace is for one time going to be short of petroleum products and perhaps a few months later we are going to be awash in petroleum products. But over the long haul, I agree with you that we can't afford the kind of gluttony that we have practiced on importing oil. I don't see how this country can afford to pay OPEC countries $95 billion a year, which is perhaps what we will be doing in fiscal 1981. That is not on a mortgage's standard of living but a heavy mortgage upon the future standard of living of this country. While the proponents of other forms advocate rationing and things of that sort, I don't think they are practical over the long, chronic period we have.

I am prepared as one member of this committee to support your position and to support the imposition of a gasoline tax which I understand is what the President has asked us to do when his authority to allocate under the fuel allocation system runs out. At that time, as I see it, we are going to have to impose a gasoline tax, because under the windfall profits tax, we practically abolished the Federal gasoline tax by allowing people to put a little alcohol in gasoline and forego the tax.

So, that tax is going to go down the drain. Then we will have no money to even repair roads in the United States.

So, I agree with you. You have taken a brave step, a correct step. I commend you for it. I am not going to condemn here vigorously, but I am going to challenge the people who are condemning what you have done to come forward with a positive program of their own. I would like to hear their program.

In the mean time, after having sat here for some eight years debating this matter, you have done the right thing, and I will support you.

Secretary **Miller**. I appreciate that, Mr. Gibbons.

I might just add one comment. I think the Nation is looking, it seems to me, for not only courageous action but some sense of constancy in our policy. It is just a few days since this Congress, this House, passed a budget resolution that includes this fee as part of the revenues of the Nation. I don't know what the American people will think if, 2 weeks later, having passed that resolution, the Congress reverses itself. It seems to me we ought to be able to stick to something for a while.

Here is a case where, as I say, the President is willing to take the responsibility, to take whatever criticism there is, but the Congress certainly has endorsed it by adopting the budget resolution that contemplates the revenue.

Mr. **Vanik**. The Chair recognizes Mr. Bafalis.

Mr. **Bafalis**. Thank you, Mr. Chairman.

Mr. Secretary, how long does it normally take from the time that we import oil until it is refined and actually is pumped out at the gas pump?

Secretary **Miller**. I am not sure, Mr. Bafalis. I can't give you the exact answer, but the mechanics of this system were such that we were figuring 60 days from the import until we could be at the refinery and have the product to the pump—60 days.

Mr. **Bafalis**. Do you have any idea how much of a stockpile of gasoline we have now in this country?

Secretary **Miller**. Yes, we have figures on that. Of course, we have unusually high stocks at the moment. We are coming into a season when normally the use of gasoline goes up. We are very fortunate in having a very full supply. I have a chart here I will be able to show you. I don't know if you can see this or not, but the seasonal pattern of inventories in gasoline are such as to peak in the winter so that supplies are available as the use of gasoline begins to build up in the spring and summer. The supplies build up and then they are drawn down. The little line here, if you can see it, shows that this is the normal stocking, and we are considerably above it.

Mr. **Bafalis**. We are at a very high point right now.

Secretary **Miller**. We are in a high point of inventory.

Mr. **Bafalis**. Would you concede, Mr. Secretary——

Secretary **Miller**. It is 279 million barrels of inventory at the moment.

Mr. **Bafalis**. Would you concede, Mr. Secretary, that a good deal of that gasoline was made from oil that did not have this tax imposed on it prior to March 15?

Secretary **Miller**. Yes, that is correct.

Mr. **Bafalis**. Am I also correct in understanding that the gasoline dealers are allowed to charge the highest price for whatever gasoline they have in their tanks?

Secretary **Miller**. I am not an expert on that system, but I understand that that is DOE procedure now.

Mr. **Bafalis**. My concern is this, if this tax were to go into effect on Thursday, many millions of gallons of gasoline which were made from oil upon which there was not a tax paid are going to be pumped at 10 cents a gallon higher. This means the oil companies are going to reap a tremendous windfall from what is happening, particularly with the huge stocks of gasoline we have in this country today.

Secretary **Miller**. Why don't I have my associate from the Department of Energy handle this because this is one of their problems. I am not that familiar with it.

Mr. **Bafalis**. I appreciate that, Mr. Secretary.

STATEMENT OF DOUGLAS G. ROBINSON, DEPUTY ADMINISTRATOR, ECONOMIC REGULATORY ADMINISTRATION, DEPARTMENT OF ENERGY

Mr. **Robinson**. My name is Douglas Robinson. I am the Deputy Administrator of the Economic Regulatory Administration of the Department of Energy.

The problem that you are addressing yourself to is not of the significance that you might imagine.

The 274 million barrels of gasoline that are now in stock are at the primary levels. That means that they are at the refinery level.

There is no opportunity—no opportunity—under DOE's pricing regulations for refiners of gasoline to take advantage of this 10-cent increase by charging that additional 10 cents to all gasoline that is in stock. The way the price rules work, it is going to allow the refiners to pass through on their current sales of gasoline a dollar amount which is equivalent to 10 cents times the amount of gasoline that they produced during the last 16 or 17 days of March. But it is a dollar amount that is established by their current gasoline production and not a dollar amount which is 10 cents times all other gasoline they have in stock and available to sell.

So, it is not a problem at the refinery level.

Mr. **Bafalis**. Let me read to you an article that was in the Washington Star yesterday, wherein they quote David Welsh, the manager of DOE's Entitlement program.

> One Department of Energy official active in the program estimated the windfall could reach as high as $100 million over the next few weeks—most of it legal. "There is no doubt but that the potential for a large windfall is there," said David Welsh, manager of DOE's Gas Entitlement Program, which is overseeing the import fee. "And it looks like the consumer will just have to pay it, because there is nothing we can do." The potential for the windfall was actually created several months ago by DOE itself. That was when officials decided to allow gas wholesalers and retailers to price all their gasoline as high as the most expensive gas in their storage tanks. This ruling, officials now say, will have the effect of undermining another DOE regulation forbidding gas dealers from charging the added ten cents a gallon fee until they actually incur it themselves. "All the dealers and jobbers (wholesalers) have to do is get a little of the new gas in their tanks Thursday and, boom, they can legally charge the extra ten cents for everything they have," said Ivan Maple, director of DOE's Division of Marketing—Industry Relations.

That came from the Department of Energy. I have concern when the Secretary tells me we have at this time of the year the largest supply that we have during the course of the 12 months.

Mr. **Robinson**. You did not let me finish my preface.

What I said with respect to the gasoline that is at the primary stock level, that is, at the refinery level, is absolutely accurate and everything in that article that you just read from does not apply to the vast amount of gasoline that is currently in stock.

The pricing regulations that apply to individual retail gasoline dealers and to wholesalers of gasoline who sell less than 5 million gallons a year, which is generally very small wholesalers of gasoline, are people who supply about 10 gasoline stations or less. Those people do have a price rule which, in effect, says that they can establish as their cost of product in inventory the cost that they paid for their most recent delivery of gasoline.

There is the potential—and I emphasize that it is only a potential—there is the potential for a very small person to accumulate some inventory, and then when the 10-cent fee goes into effect and that is charged on his next delivery that he can add that then to everything that is in stock.

The problem is not a significant problem, however, because we are talking about very small people who have very little ability to accumulate inventory. The typical retail gasoline station has an ability to accumulate only a couple of thousand gallons of gasoline.

Mr. BAFALIS. I don't want to dwell on this point. Unless your agency has made a misstatement, they are talking about a $100 million windfall, and that is not a small amount.

Mr. ROBINSON. Mr. Welsh works for me and I do not concur in that statement that there is a $100 million windfall opportunity.

Mr. BAFALIS. Mr. Secretary, my time is going to run out.

I just want to explore one other thing that was asked by Mr. Moore regarding why you did not consider a larger import tax, say, of 50 cents, and your response, as I recall, was that it would be highly inflationary.

Did you ever consider the possibility of recycling that money back into the economy through a major tax cut so that we would not have the inflationary impact and, at the same time, bring about some serious conservation?

Secretary MILLER. I hope my answer was that the inflation aspect was only one aspect among many others to be thought about, including the degree to which we create pace of change.

The answer is that if the amount of fee were larger or if Congress in considering an ad valorem tax that we are going to propose as a substitute for this, decided that a larger tax should be imposed, then I think we would have to look at recycling possibilities. If you go to much larger numbers, I think you would have to look at whether it doesn't have to be put back in the economy some way.

As I was pointing out, there is an inflationary impact but there is also a drain on purchasing power. If you drain too much purchasing power, you will slow the economy down even more. What we would like to do if we had a higher tax would be to recycle it so that that purchasing power is replaced.

Mr. VANIK. Mr. Fisher.

Mr. FISHER. Thank you, Mr. Chairman.

Mr. Secretary, the principal doubt I hear from people with respect to the proposal is that it will reduce consumption only just a little bit, 1 percent, 2 percent, and will irritate people greatly and that, therefore, they say it is not worth doing.

Furthermore, they argue that the price is likely to go up by a good deal more than this 10 cents a gallon because of OPEC policy and other factors, and, that, in short, it just is not worth irritating so many people for such a small contribution to conservation. Would you comment on that?

Secretary MILLER. Well, as I pointed out, the more than doubling of the price of gasoline in a year, I don't know if that has irritated people, but it has been imposed by oil producers, and it has been absorbed, and my observation is people recognize that as inevitable, and they have paid it.

It is creating its own degree of conservation.

To suggest that we should not try even to make marginal improvements in conservation because they involve price increases, I think, is to say we are going to simply let price increases be imposed by OPEC, and we will accept those, and we wouldn't have any problems. But if our own Government tries to reduce our dependence upon foreign oil, even in a marginal, modest way, it will somehow be irritated. I don't think that is the mood of the American people. They recognize the need for conservation. They are strong and better able to recognize that even small steps are worthwhile.

As I just pointed out, if the $2 per barrel increase we read about on the newswire in Saudi oil should represent a $2 increase for the average oil that we import, if that happens, then we are talking about another nickel a gallon, and we continue to be nickled and dimed to death. But sometime we ought to start holding those revenues for ourselves, putting them back into our economy and using the conservation effort that we can achieve as a longer term look at the problem. I think even small incremental improvements are very worthwhile as part of a pattern, part of a message, part of a presidential statement.

The fact that it attracts such attention is a great statement to consumers of the seriousness with which the Presedent places on conservation and the call he is putting on every American to do their part.

Every American automobile could absorb this 10 cents by using 7 percent less gasoline in an era where we use a lot more than that in discretionary ways.

I think that families ought to look at putting a cap on the dollars they will spend for gasoline and reduce their mileage. Someone who drives 100 miles a week would have to drive 7 miles less per week and pay no more dollars to accomplish the purpose. That would be a very worthwhile contribution to conservation, a very worthwhile message to oil producers, to foreign exchange markets, a very strong lesson to ourselves.

Mr. FISHER. Thank you.

As I understand it, doing this by import fee and then trying to track that down as to gasoline is a way of doing it. Perhaps it is a little clumsy, but later on you would propose to shift from that to a straight tax on gasoline. Am I correct in that?

Secretary MILLER. Mr. Fisher, the reason to use the entitlement system to shift the conservation fee to gasoline is because gasoline represents the most discretionary use of oil and, therefore, for the least cost to the American public, we could get the biggest bang for the buck in saving.

In considering the reason for the President using the authority to allocate it that way, that authority runs out on September 30, 1981. What we are proposing to do was to submit to Congress the opportunity for Congress to enact an ad valorem gasoline tax that would substitute for this and this would drop out. If Congress fails to do that, I think the President would have to review what he does after September 1981, but he was reluctant to have a higher price fall on all products where, for 60 percent of them, the conservation would be very limited. Yet, to get the conservation in the 40 percent of gasoline, you would have to put higher prices on others, so they tried to put it all on where we would get the most conservation.

Mr. VANIK. Mr. Holland.

Mr. HOLLAND. Thank you, Mr. Chairman.

Mr. Secretary, I am in complete support of what you are trying to do, but I want to be candid about this Congress and this committee. I don't believe this committee, the full Ways and Means Committee, nor the House of Representatives, is going to support what you are trying to do. I hate to say that but that appears to be the case.

I remember the President saying—and I believe I have the years correct—that we would not import one barrel more in 1980 than we did in 1979.

Secretary MILLER. That is correct. The peak import was in 1977, and we are going to see that we never import that much again.

Mr. HOLLAND. He has, in effect, placed a limit on the number of barrels we import; is that right?

Secretary MILLER. That is correct.

Mr. HOLLAND. Since rationing is politically unpopular, as you know, and this 10 cents a gallon is politically unpopular, it seems to me the Congress just wants a lot of gasoline for a low price and in a never-never land that works that way.

Why doesn't the administration reduce the amount of gasoline in barrels of oil we allow to come across our borders?

If Saudi Arabia raised the price $2 a barrel this morning, we have two problems. One is to reduce our own dependence there, and the other is to reduce the outflow of American oil.

It seems sensible to me if they are going to do that, we should reduce by 7 percent, or whatever it amounts to, the number of barrels they are going to ship into here. If we are going to get serious about this, we can't manage rationing at 10 cents a gallon.

Secretary MILLER. One of the problems of reducing the level of imports is that we say we are going to take 7 percent less and the effect of that will be to force much higher prices onto all aspects of oil usage in the United States if there is a shortage.

Mr. HOLLAND. Isn't that what we are trying to do, Mr. Secretary?

Secretary MILLER. If we did it by limiting the number of imports, the same number of barrels, prices would go up on all products because there would be a shortage and there would be a bidding for what is available, and the prices would go up.

The President was trying to accomplish the task in a more targeted way by putting the price increase only on gasoline, because that is the place where there is the most discretion and the least harm to individuals, families, businesses, because there is the most opportunity for all of us to take one less trip or consolidate or car pool or do something that would save 7 percent and end up not costing you any more but contributing to conservation.

The other way you mention is possible, but it would have an impact on heating oil, which members of this committee feel, as I do, is less discretionary use and would harm people who have no choice.

The Northeast depends so much upon heating oil and families there cannot very easily give up that particular use. So we are trying to put it on the place that is most discretionary. Your point may be correct politically.

Mr. HOLLAND. I am trying to point out that what we are trying to do terrifies every Member of Congress. If we are going to get drastic, we should get serious. I am in sympathy with what the President is trying to do, but I don't believe there is enough political tenacity in this Congress to support you.

Secretary MILLER. I respect your judgment, Mr. Holland, and in this case, I hope you are wrong.

Mr. HOLLAND. I have been wrong before.

Mr. VANIK. Mr. Archer.

Mr. ARCHER. Mr. Secretary, will this 10-cent-a-gallon tax on gasoline remain at 10 cents over the next 3 years?

Secretary MILLER. Mr. Archer, the proposal is to maintain the 10-cent conservation fee. There is no intention to change it.

Mr. ARCHER. Will it stay at 10 cents? Is that the intention?

Secretary MILLER. That is the intention, but I have to qualify that. In 3 years, the President will submit to Congress a proposal for Congress to impose an equivalent gasoline tax, in which case the fee would drop out and then Congress would decide for itself.

Mr. ARCHER. The proposal would be 10 cents a gallon?

Secretary MILLER. The point I am trying to make is if Congress wanted to do something else, it could.

Mr. ARCHER. I am trying to determine the amount. It would be 10 cents a gallon?

Secretary MILLER. That is the present intention.

Mr. ARCHER. That runs totally contrary to the testimony Mr. Duncan gave this committee that the President said it would be an ad valorem tax and it would increase as the price of gasoline went up.

Secretary MILLER. We are both correct.

You asked me if the fee would stay at this level. The answer is "Yes."

What we would submit to Congress is a proposal to supercede this which would consist of the present 4-cent tax plus this 10 cents shifted to an ad valorem tax.

Mr. ARCHER. That was the purpose of my next question. I thought you said a flat 10 cents a gallon tax.

Secretary MILLER. The proposal would be for an equivalent tax on an ad valorem tax basis.

Mr. ARCHER. This mere 10 cents a gallon, as you state in your testimony, is not really 10 cents a gallon but will be converted to an ad valorem which will go up with the price of gasoline.

Secretary MILLER. Only if the cost——

Mr. ARCHER. I understand, but that is the proposal the President will put before the Congress. But until the President's authority runs out in 1981, it would be kept at a flat 10 cents a gallon?

Secretary MILLER. As far as I know, that is the only intention we have at the moment.

Mr. ARCHER. Have you done a study of the impact of this action on various regions of the country?

Secretary MILLER. Yes, we have looked at some aspects of this. There are some shifts around the country.

Mr. ARCHER. Will it impact differently on the Northeast than it will on the Southwest?

Secretary MILLER. Let me get my regional data here for just a second.

Mr. ARCHER. Mr. Chairman, we might have the Secretary submit that.

Secretary MILLER. I have it right here. The impact is less in the Northeast and somewhat greater in the Southwest.

Mr. ARCHER. Mr. Secretary, this is what I feared. Being a representative from the Southwest, we once again are being in effect run over in a way that subsidizes the Northeast and impacts unfairly on the Southwest and the Western regions of the country. This seems to be the type of program the administration enjoys submitting to the Congress and which we have seen come before this committee time after time.

Secretary MILLER. I am not sure, Mr. Archer, the 4-cent tax has the same distribution.

Mr. ARCHER. You are increasing it another 10 cents and magnifying the discrimination.

Let me ask you this. How can a liability be created for this tax during the interim period under which it is in litigation without an increase in the gas pump price?

You commented earlier that there would be no increase in the gas pump price until the litigation is completed, but you said that there would be a contingent liability for the 10 cents a gallon that would have to be paid if the court ultimately accepts your reasoning and you win the final legal battle.

Secretary MILLER. We would organize the program if we win the legal battle, as we expect to, the 10-cent charge would then be put on at the pump and the accrual liabilities would be adjusted. So it would have only that effect.

What is happening now is when oil is imported, there is an import fee which is to be reimbursed from the refineries on every gallon of gas they produce after a certain date, and that reimbursement will exactly equal 10 cents per gallon produced, and we will let those accrued liabilities of the refinery merely run and not collect them until this is decided, and then to pick a date so that it would be only 10 cents a gallon at the pump.

Mr. ARCHER. My time has expired, Mr. Secretary, but I think it is important for the committee to understand this.

Will that liability be retroactive to tomorrow?

Secretary MILLER. The liability started in March because of the fact that the 10 cents that would go into effect tomorrow would be based on the production of gasoline in the last half of March, because that is the lag time before it gets to the consumer.

Mr. **Archer**. I am sure you understand the consternation this is creating within the refinery industry and the amount of administrative headaches and uncertainty that this is having in the refinery structure of this country, and I hope the administration will take that into account.

Secretary **Miller**. We certainly will, because we would like a very rapid decision on the case.

Mr. **Vanik**. The Chair recognizes Mr. Guarini.

Mr. **Guarini**. Mr. Secretary, I don't quite understand how you can put the liability on the refinery if there is no money to be imposed on the consumer at the pump. How can you retroactively tax the consumer? How can you hold a refinery responsible for the money that the consumer, in fact, will never pay? It does not seem logical to me.

Secretary **Miller**. The refineries have already been accruing the liability, and what we are saying is that that will not be allowed to be passed through to the consumer while this litigation is going on, and at the time the litigation is settled favorably to the Government, then the passthrough would be allowed but only 10 cents and the accrued liability would be adjusted accordingly. There is no money being paid to the Federal Government at the moment, so there would be no problem making a simple adjustment.

Mr. **Guarini**. I just don't see how you can get it retroactively——

Secretary **Miller**. We would not try to collect it retroactively. If we can get this case decided within the next 10 days to 2 weeks, then it would become effective and you would not try to collect it for the intervening period.

Mr. **Guarini**. In fact, I don't understand——

Secretary **Miller**. Instead of the 15th of May, it would be June 1. That is all.

Mr. **Guarini**. I don't understand how, if the court order actually enjoins the President from imposing this tax, you even have the right to impose it on the refinery.

Mr. **Vanik**. Would the gentleman yield? I think you raised a very interesting question, whether the President would have to issue a new order or would you rely on the judge's order in the final court decision for the effective date.

Secretary **Miller**. For the effective date, the President would issue a new directive.

Mr. **Guarini**. Have any studies been made as to the impact on heating oils, Mr. Secretary, or has it just been the rationale that you gave in your presentation?

Secretary **Miller**. No. The Department of Energy has done considerable study both on the market situation and what might be expected from market conditions, whether there would be any opportunity for some of this conservation fee to be passed through to other products, That analysis both in terms of market and relationships, I think, would contribute to a good confidence that this can be assured to fall solely on gasoline.

The Department of Energy, however, intends to monitor that. As I indicated, Secretary Duncan would be happy to report periodically to this committee or to the Congress to show the results.

Take heating oil, for example. If there was an effort to passthrough the fee to heating oils, it would normally take 2 cents in heating oil price to make up for the 1 cent in gasoline. That in itself is a problem. It takes 4 cent on residual oil to make up for 1 cent on gasoline because of the difference in volumes.

Mr. **Guarini**. You are assuming that the law of supply and demand applies in the field of energy. As I see from your rationale, you say there is a softer market and a surplus at the present time. Some of our rationale seems to be basic to the fact that the marketplace controls the price of gasoline. I don't feel that is so. Do you?

Secretary **Miller**. The marketplace has an influence on prices, as we see now. When stocks are high, we see a softening in retail prices. As you are perhaps implying, the ultimate relationship is much more to the fundamental crude oil prices, and if they adjust to temporary conditions in the market, the stocks will change from time to time and we should not count on that as being a basis for permanent softness.

Mr. **Guarini**. One other rationale you have given is that conservation will help, and instill discipline in the world oil market. But just today you said that there was no discipline in OPEC. We got a $2 raise. Isn't that a contradiction to the position you are taking by using that rationale in the heating oil argument?

Secretary **Miller**. I don't think so. I think what we have had since December of 1978 is not only the normal problem of oil in the world but an exacerbated problem.

The change in the Government of Iran, the Iranian revolution, as you know, resulted in a dramatic change in the availability of oil from that country. I think at the beginning of 1979, Iran was exporting about 6 million barrels a day. It is probably currently exporting less than 1 million barrels a day. That greatly upset the whole balance in the world. Until we can reestablish a situation where the supplies are more in relation to demand, which they have been recently, and they will do that permanently, until we can do that, we will constantly be facing potential price increases just as the one we now see coming into effect. The best way to counter that is to hasten the day when we require less oil from abroad and others require less, conservation is greater, and alternate sources of energy are greater so that we can reduce demand and have an effect, which we will.

Mr. **Guarini**. The thrust of your argument is conservation. Do you have any studies concerning conservation or is it only the psychology of the people not being willing to pay more for gasoline which is contrary to the findings of Europe? In France, Spain, and Italy, the price has not deterred the people from conserving gasoline.

Secretary **Miller**. Well, the countries that you cite use considerably less gasoline per capita than we do. In countries where there are higher prices, several things have happened.

No. 1, as you well know, their automobiles have been smaller and lighter and more fuel-efficient. They enforce that action and enforce conservation through the choice of what kind of automobile they could afford. They could not afford the kind of automobiles we have been driving.

The other thing is that the number of automobiles per capita and the usage per capita is much lower. We already see a tremendous shift in preferences in this country for more fuel-efficient automobiles as part of the response.

There have been, to be specific, many studies on the elasticity and what happens with price and the use of gasoline, and the experts vary, but I think the DOE's estimates in this case are sort of a middle ground. There are those who would expect more conservation. There may be those who have a more conservative view, but I think it is quite a middle ground and it is based upon a considerable economic analysis and formulas as to what the elasticity is.

Mr. GUARINI. Just one more question, Mr. Chairman.

Mr. VANIK. Unless Mr. Lederer yields.

Mr. GUARINI. Thank you.

Have you discussed the impact of inflation with the inflation fighter, Doctor Kahn?

Secretary MILLER. Yes.

Mr. GUARINI. Does he take the same position that you take concerning inflation and would you state what his official position is?

Secretary MILLER. We face a tremendous dilemma in our fight against inflation with the energy issue because the choices in conserving energy, conserving oil until we can shift to alternate sources, are either rationing or price increases. Price increase is forced upon us whether we like it or not and we have been absorbing that and it creates inflation, large amounts of inflation, and these oil price increases are, as we all realize, one of the great problems we have had in controlling inflation.

In fact, at the beginning of 1979, we were making good progress in bringing inflation down. It was all wiped out by the enormous oil price increases.

We know that something like imposing this fee increases inflation. We know that failing to conserve energy will increase inflation more.

Alfred Kahn participated in the discussion and the recommendations to the President about this fee. He concurred in it. So, he would have to speak for himself as to his detailed preferences, but, as I recall, and I would have to check this and I would like a chance to send back a correction for the record if I find I am in error, but as I recall he did support the decision. I will check it for sure, though.

Mr. GUARINI. Thank you.

Mr. VANIK. Mr. Lederer.

Mr. LEDERER. Mr. Secretary, earlier Congressman Holland stated that he did not think the political climate was right in this Congress. I don't believe it will be right in the next Congress either. I would suggest to the administration that if we could take the tax and the windfall from the tax and put it into mass transit or into the conversion of corn and sugar crops, the possibility of tar sands and shale oils, I think the American public would understand what is happening to their money. I just came through a primary campaign and the American public feel strongly that this is just another ripoff to the consumer. Could you give me your thoughts on that?

Secretary **Miller**. I hope we all understand this is not the total energy policy. This is a small part of a greater energy picture. As you know, the objectives of the Government, I hope for Congress as well as for the administration, is to proceed with a very comprehensive effort to reduce our dependence upon foreign oil over the decade of the 1980's so that by 1990, even though our economy will be larger and our use of energy will be larger, and even though our domestic production may not be much greater, we will have reduced our imports from the 8½ million barrels per day, which we experienced in 1977, to something like 4½ million plus or minus barrels per day in 1990. That is the objective. It includes conservation as the highest priority because it is the cleanest, cheapest, easiest way to conserve oil. It includes using every incentive including decontrol to create conditions that will encourage exploration for development and production of domestic conventional energy, including oil, gas, coal and nuclear. It includes a strong component to develop synthetic fuels, the liquefication of coal, the shale oil, the unconventional gas involving enormous investments over the period of time and involving recycling of the windfall oil profit to help finance in the private sector some of those developments.

It involves, fourth, a very strong component in terms of renewable sources of energy—solar, the biomass, the alcohol, all of these have to be pursued in conservation. It includes these kinds of efforts but it includes building a new kind of automobile that will be more fuel efficient. It includes putting money into public transit. It includes one major piece of legislation from oil to other kinds and so forth.

Mr. **Lederer**. I understand that, Mr. Secretary.

However, I don't see where these taxes or this 10-cent tax go into that area. Aren't we going to do this out of the windfall profits tax?

Secretary **Miller**. Do you mean the funds from these?

Mr. **Lederer**. From this 10-cent tax.

Secretary **Miller**. As I say, it is a legitimate thing for Congress to be looking at the broader energy policy and if we are short of resources in any of those priorities, we certainly could look at providing those resources.

Mr. **Lederer**. Also, Mr. Secretary, in the area of conservation with the imported oil, I don't see where it has any effect on domestic oil.

Reading over the judge's decision, he almost comes up with the same opinion that although we may conserve with imported oil, we are just going to take the domestic oil and we will be doing the same thing. We wouldn't be conserving in our own area.

Secretary **Miller**. I am not sure I understand, because the overall effect of this, the *Algonquinn* case involved an import fee which was then spread over all the products, and you get the same restraining effect by the pricing being spread over all oil, whether it is domestic, and I think this is an area where we are not in agreement with the judge. We will have to see how that comes out.

Mr. **Lederer**. I thank the Secretary and yield back the rest of my time.

Mr. **Vanik**. The Chair recognizes Mr. Frenzel.

Mr. **Frenzel**. Thank you, Mr. Chairman.

Thank you for your testimony, Mr. Secretary. It is always good to have you before this committee.

Mr. Secretary, if this proposal is rejected by the Congress or by the ultimate judicial authority, how is the United States going to reduce its reliance on foreign suppliers of oil?

Secretary **Miller**. We should not abandon all of the other programs, Mr. Frenzel, that we are pursuing to reduce our dependence because, as I say, the effort to do so is a comprehensive one. It involves the kinds of priorities I just outlined. We should pursue all of them vigorously.

Obviously, in an interim period when we are trying to encourage conservation as the fastest thing we can do, it is attractive to try to concentrate on that area of conservation. Later on, as we begin to shift to alternate sources and different methods, we can reexamine where we put the most. But the fastest, cheapest, surest way to reduce our dependence is to use less. So that is the first thing to do. But we should not abandon an effort. Every barrel of oil we can save is important.

Mr. **Frenzel**. So you are saying that this is a very important part of our energy independence effort and if it is lost, however it is lost, it will make it more difficult for us to carry out our program?

Secretary **Miller**. It will. If it is lost, so be it, and we will pursue vigorously every other effort. We hope we will be sustained because we believe it contributes positively.

Mr. **Frenzel**. Mr. Secretary, you indicated that the Government was going to go through the appeal process. A previous appeal in the Ford administration seemed to take about a year and a half to go through all the levels. Do you have any opinion as to how soon we might have a final legal decision even if we move promptly on this bill?

Secretary **Miller**. I can only give an estimate of what we will try to accomplish. We will try to make this a matter of weeks in seeking an expedited procedure to have a decision from the court of appeals. That court will have to, of course, make that decision. We cannot require it. We will seek it and we hope that because of the importance of the issue and of the importance of certainty in this area, that we will have such procedure.

I would think then if that happens, again, it would be an expedited procedure if any party decided to seek review by the Supreme Court.

So, I think we are talking a matter of weeks if we are able to get expedited procedure.

Mr. **Frenzel**. Thank you, Mr. Secretary.

As you have had dealings with representatives of other governments of our allies in the Western industralized world, can you tell us something about their attitude on our conservation program, and maybe specifically on this one?

Secretary **Miller**. Generally, in my experience, there has been some criticism of the United States being slow in reducing its own consumption of oil as the oil crisis of the 1970's unveiled. Throughout the 1970's we tended to not yet believe as a nation that there was a fundamental change in the availability of oil and the price of oil. Therefore, we continued to carry on business as usual and consumed as usual and have our consumption grow, as I indicated from, I think, 3.2 million barrels of imports in 1970 to 8½ million in 1977. I think we were criticized considerably for continuing to have high demands for imports and thereby putting pressure on other countries who had to compete for what oil was available.

I think the recent actions in putting on the limit on imports, on decontrol, on the windfall oil profits, and specifically on this particular conservation fee, have been very positively received abroad and in the councils that I deal with, I have had many comments and observations that now, they felt the United States was serious, and I found that the attitude in working out arrangements with other governments has improved.

We go to the International Energy Agency meetings. It is tremendously helpful for us to be able to point not only to the real reduction in consumption we are getting but further actions we are taking to control it. It helps us in encouraging other nations to join in the procedures and techniques for a concerted effort to reduce.

Mr. FRENZEL. Mr. Secretary, my time has expired. Thank you for your testimony.

Mr. VANIK. Mr. Cotter.

Mr. COTTER. Thank you, Mr. Chairman.

Mr. Secretary, as I understand the court's decision yesterday, the objection which the court has was the tilt toward gasoline. Is this correct?

Secretary MILLER. This is what I understand.

Mr. COTTER. And if it were not for that, the President would have been upheld probably.

Secretary MILLER. As I understood, the court reconfirmed the authority of the President, reconfirmed that this was a proper imposition of an import fee. It was not a tax, and it was within the authority of the President to make the determination. The disagreement, as I understand it, was over the use of entitlements to place it on gasoline.

Mr. COTTER. Let's assume that the court reaffirms the decision of the lower court. Will the President then come back with a tax on all oil?

Secretary MILLER. Mr. Cotter, I hope to be in close touch with the President but I would never prejudge what he would want to do. I think he will have to make that determination.

Mr. COTTER. Why I raise this question, it appears to me as though this is a revenue-raising item and, my gosh, where I come from, the Northeast, the people have made a genuine effort to conserve, particularly in the home heating oil area. The figures are down between 20 and 25 percent over a year ago. I don't think there is any elasticity left in that figure or very little, and in my estimation, to impose it on home heating oil and other oil products would be highly unfair. Of course, as you recall, the President said any energy policy which he institutes would be fair to everyone. I would certainly hope he would not take these steps.

Secretary MILLER. I am sure he would want to consult with Members of Congress before taking those steps.

The reason he used the entitlement system to put this charge on gasoline was because of the very reason you are talking about. It is the place where there is most elasticity, the place where there is discretion to reduce consumption without creating hardship. I think the President was very sensitive, we were all sensitive to the fact that we could conserve more oil at less cost to the economy this way than by placing a fee on all oil products which would hit many people who cannot make any more reductions, so that is why it was done. The reason it was done is the reason you are talking about.

Mr. COTTER. Another question. As I understand it, the CBO has estimated this 10-cent-a-gallon tax on gasoline would impact the automobile industry to the extent of some 175,000 automobiles in the forthcoming year.

Secretary MILLER. I have not seen that. I am not familiar with that.

Mr. COTTER. Have you any figures on what the impact——

Secretary MILLER. I would be surprised. I would think it would have minor impact because, in the first place, the market, the U.S. market preference has already shifted very rapidly to fuel-efficient automobiles. The problem is to get the U.S. automobile companies tooled up to produce them. I think all they can produce will be sold, and I think in the meantime that the market has been soft for the traditional rear-wheel drive U.S. autos, and we will see, I think, a market preference for the fuel-efficient, smaller, lighter, front-wheel drive cars.

Mr. COTTER. If you will just give me a moment here, I have the CBO report that says:

> The impact of the fee and the tax on the auto industry will be small but noticeable. Previous research at CBO and elsewhere suggests that the elasticity of demand for cars with respect to the price of gasoline is minus two-tenths of one percent. Thus, this 9.7 cents per gallon increase in the price of gasoline could reduce the demand for automobiles by 1.5 percent, or 15,000 units in 1980.

Now, you sit on the board that has to approve this Chrysler loan. It would appear to me as though Chrysler would be severely impacted because of their inability to come up with a sufficient number of small automobiles.

Secretary MILLER. I think that has already happened. I think that is the problem that we are facing.

I have no doubt that Chrysler in introducing its new K-body cars will have something that is adapted to the market, something Americans want, something that will meet the market need and they will sell them.

In the meantime, all U.S. automobile producers are having trouble selling the traditional American cars.

Mr. COTTER. What happens if there is no demand even for the existing cars? Certainly, Chrysler has to be impacted at a time when they can ill afford it.

Secretary MILLER. Mr. Cotter, the next sentence in the CBO report that you read says what I was trying to say and maybe not so well, that if U.S. car manufacturers increase their production of small cars as they have stated they will, this figure which you quoted would overestimate the decline in U.S. production and I think that was the point I was trying to make. If we get the right kind of cars produced, I think Americans will continue to show a willingness and readiness to buy them.

Mr. COTTER. Then it goes on to say "Reflecting a possible increase in the number of imported automobiles," which then throws the balance of payments off and further impacts the local industry.

Secretary MILLER. It is our belief that the impact on the automobile industry of the U.S. producers has taken place and what we need to return us to a vital, progressive U.S. auto industry is to move to the new cars.

We have a disadvantage for a time being, because as I mentioned, the high cost of gasoline throughout the world, other than the United States, has resulted in foreign automobiles being smaller, more fuel efficient. We are at a disadvantage because our companies will have to go through a tremendous crunch in terms of time to speed up their retooling to produce those competitive cars. In the meantime, we do suffer from the fact that Americans are showing preferences for imported cars which have those characteristics.

I believe the American industry will be highly competitive and highly successful as soon as it gets retooled. So it is just a question of doing that.

Mr. COTTER. I am not sure the oil fee will help this optimistic scenario. My time has expired. Thank you.

Mr. VANIK. Mr. Secretary, on that one point, we aren't lending money to Chrysler to build any more big cars, are we? You made the loan arrangements. I hoped they were going to get out of that business right away.

Secretary MILLER. Mr. Chairman, I think if you looked at their original operating plan submitted to us last September and looked at the one they now submitted and revised in May, you would find that their mix has gone as fast as they could toward the fuel-efficient small cars, which is just the direction they should go.

The number of the other cars to be produced will be reduced rather rapidly and sharply.

Mr. VANIK. It would seem under these circumstances we should not lend them money to produce any inefficient cars.

Secretary MILLER. As you know, they will be concentrating on meeting the efficiency requirements but phasing down and changing over operations does take time and I think we have to allow time for them to accomplish that.

Mr. VANIK. Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman.

Mr. Secretary, I want to ask, based upon your studies within the Department, in your judgment, over the next 5 years, do we have any option other than to go either to rationing or to the tax route that you are now proposing?

Secretary MILLER. I think there are no choices if we are to reduce our dependence on foreign oil, uncertain prices, fragile supply lines. If we are going to gain control of our destiny, we have to reduce importation of oil. We have to do it based upon physical quantities available, rationing, or have price characteristics that will encourage all of us to conserve and to shift to alternate means. I think those are only two choices.

You can take gradations and combinations if you say you can have so much, or you have to pay so much that you yourself buy less.

Mr. Jenkins. So, the American people and the Congress have the decision to make whether we go to rationing or we take the tax route?

Secretary Miller. Or price route, because price includes the domestic decontrol which is adding to price, but it is not in the form of tax, so it is pricing or rationing.

Mr. Jenkins. If the Congress rejects the price route, you are in effect saying we have no other alternative other than to go to rationing?

Secretary Miller. The third alternative is to continue to import too much and spend too much money abroad.

Mr. Moore. Would the gentleman yield?

Mr. Jenkins. Yes; I yield.

Mr. Moore. There is another alternative and that is deregulating the price of gasoline.

Secretary Miller. That is price.

Mr. Jenkins. I realize the choices are really limited to the Congress.

As you know, I have supported rationing, and that is about as politically unpopular as increase in the price, and I understand all of the liabilities. But really, the Members of Congress by this vote are going to indicate whether or not they favor rationing or whether or not they favor the economic increase in price.

Secretary Miller. After you explain it to them, they will understand that, and I think that is a good point.

Mr. Jenkins. What really concerns me if we go the price route is this: You are asking for a 10-cent-a-gallon increase. As you previously indicated, the Germans have a price of $1.14 a gallon tax already, I believe.

Secretary Miller. That is correct.

Mr. Jenkins. France has $1.80 tax; is that correct?

Secretary Miller. France is $1.62; Italy, $1.83. Japan has a high tax also. I think most of the other oil-importing countries have very high taxes.

Mr. Jenkins. My problem is this: Is 10 cents a gallon going to be sufficient if we go that route rather than the rationing route? If we go the economic pricing route, are we going to have to come back and substantially increase this tax in the next 5 years?

Secretary Miller. I think it depends on other factors. As you know, we have proposed the modest rate of 10 cents because we believe that it could be absorbed without major dislocations because of the already significant changes in prices that have already taken place in world oil markets and from domestic decontrol.

You may be right. If Congress decided to put on a tax, it may want to look at the amount of it and review it from time to time to see if it was getting the job done.

Mr. Jenkins. Thank you, Mr. Secretary.

While I favor the rationing direction, as you well know, I really think that Members of Congress and the American people have to understand if those are the only two options that neither one of them is going to be received very favorably. But, unfortunately, that may be the decision the Members of Congress will have to make.

Mr. Moore. If the gentleman would yield, I would simply point out that by passing the resolution today, you are not taking a vote on the deregulation of gasoline which is a mechanism to raise the price. You would be simply voting on the tax. I don't think that the third possibility——

Mr. Vanik. The time of the gentlemen has expired.

Mr. Jenkins. Is the gentleman saying we are voting for a rationing plan or tax, or let the oil companies have the additional——

Mr. Moore. You are voting for a tax. If you want Uncle Sam to have more money, you vote for a tax.

Secretary Miller. I must point out that the Court has called this a fee. It is not a tax.

Mr. Vanik. Mr. Jones.

Mr. Jones. Thank you, Mr. Chairman.

Mr. Secretary, I regret that I have not been able to be here for all of your testimony. We have been in conference with the Senate on the 1981 and 1980 budget resolutions. If I repeat some questions that have already been asked, please excuse me, and I will forgo them.

I want to follow up something my colleague, Mr. Lederer talked about, and that is what is going to be done with this money. He suggested that it had to go into mass transit, or something of that nature.

The House of Representatives, however, just last week in its First Budget Resolution for Fiscal Year 1981 set aside this money for the sole purpose of giving tax relief in two areas to working Americans: payroll tax relief, and increased productivity tax incentives through accelerated depreciation. So the money has been spoken for by the House of Representatives in the form of a tax bill.

If this import fee authority is withdrawn by Congress, that effectively withdraws the financing for tax relief in 1981. I assume the administration will also be following suit on that before long.

Let me ask you, Mr. Secretary, on the question that Mr. Frenzel raised about what the effect this import fee would have on some of our allies. I have been told by some who are both within the goverment and some who are not that the importanace of this fee is the kind of signal that it sends both to OPEC and non-OPEC nations. I have even been told by some who have talked to OPEC country officials that with this fee in place, it is likely to reduce the demand for rapid price increases by OPEC in June.

I don't know if you can comment on that or not, but I was somewhat less than impressed in your response to Mr. Frenzel about the impact this fee would have on our allies, and I wonder if you can tell me whether or not this seriously will be an important factor in what OPEC does and what our allies do.

Secretary Miller. Mr. Jones, I want to go back and comment on what you just mentioned, the budget resolution.

I pointed out earlier that the House has adopted a budget resolution that contemplates this fee being in place, and one of the points I was trying to make was this: I hope the House would not reverse itself so quickly, having once just recently made that decision.

On the point of the effects in the world, you have to take them by different categories. In terms of our allies who are oil importers also, this has been a very important signal in making progress and in discussing how we work together on worldwide conservation because it had been felt before that if many of these countries are themselves imposing high taxes and using the price mechanism to control their domestic use of gasoline, at least we should show some willingness to do so in order to get their cooperation in the whole program. This has been very helpful.

Second, you have to look at the producers. OPEC is not tremendously unified in all of its views, but I think the major responsible leaders of OPEC have taken the view that if we would do more, they would tend perhaps not to hold down prices but to moderate them; because if we would demonstrate a willingness, they would meet us some way. That is not a view that every country in OPEC would necessarily pursue. I think that is true.

Third, look at financial markets and how people vote as they exchange securities or as they buy currencies. There has been a strong reaction favorable in terms of the United States being willing to take this very unpopular act as a demonstration of will. I think it has helped us in the currency markets.

So, I think in all of those fronts we have gained. I think the public comments that have been made by representatives of all those various interests have been reassuring and encouraging. I think taking away the authority would be a negative authority.

Mr. **Vanik**. Mr. Jones, would you yield for just a moment?

Mr. **Jones**. I yield.

Mr. **Vanik**. It is the intention of the Chair to finish the statement and the testimony of Secretary Miller and then meet at 1:30 to commence markup and action on the resolution.

Mr. **Jones**. What does that do to the full committee's markup?

Mr. **Vanik**. We talked about 2 o'clock for that. I imagine we will get to a vote by 2. The subcommittee will be in order at 1:30.

The full committee is scheduled to meet after our proposal. That is why I would like the subcommittee to begin its markup at 1:30.

Mr. Jones has another 1½ minutes.

Mr. **Jones**. Mr. Chairman, I won't take the time.

In light of yesterday's court decision, Mr. Secretary, it seems to me that now is not the time to be making an affirmative decision on whether or not the President should have this authority as far as Congress is concerned.

I wonder if you have already addressed this question about the advisability of delaying a vote pending a little better reading on the legal status. If you have already spoken to that, disregard the question; otherwise, I wish you would expand on it.

Secretary **Miller**. I have said it but I would like to expand on it.

When my testimony was scheduled, we were not aware of the court decision. I would urge the committee, I would urge the subcommitte to defer its action, because I think it would be better and more proper to act in pursuance of public policies if the legal issues were seen and resolved.

I think to react now about a matter of Presidential authority which has a negative signal in terms of how you address in terms of confrontation between the President and the Congress, to act upon that while it is being litigated and resolved in another forum, I think, is unnecessary. I think this committee would well reconvene after the courts have pursued this, find out what the outcome is, and then make its judgement.

Mr. **Jones**. Thank you, Mr. Secretary.

Mr. **Vanik**. Mr. Secretary, one question comes to my mind before I forget it. Does the Saudi increase in prices have anything to do with the unsuccessful Saudi efforts to censor American television re "Death of a Princess"?

Secretary **Miller**. I would think price increases affect all their customers and, as you know, we take 16 percent of our oil from Saudi Arabian oil imports. So, we are not their biggest customer.

Mr. **Vanik**. In connection with the price increase they made, they did not relate at all to any actions here in America?

Secretary **Miller**. We have only seen this news report. I would doubt it would be related in any way.

Mr. **Vanik**. Mr. Martin.

Mr. **Martin**. I have no questions, Mr. Chairman.

Mr. **Vanik**. Are there further questions?

Mr. Shannon.

Mr. **Shannon**. One brief comment, Mr. Chairman.

I read the decision Judge Robinson handed down, and no doubt you have. We are both lawyers. I don't see any place in that decision where the judge ruled that this was not a tax.

Have you read the decision?

Secretary **Miller**. I have not read the full decision. My attorney told me it said that.

Mr. **Shannon**. I have read it, and I have not come to that conclusion. I would suggest you take a look at it.

Secretary **Miller**. I will take a look at it.

Mr. **Shannon**. If I could read you one sentence from the decision, the judge said, "It is clear the Congress, not the President, must decide whether the imposition of a gasoline conservation fee is good policy."

It would be my understanding that what we are talking about here is policy. We are not talking about the authority and whether or not the President has this authority and what the court finally decides make no difference on our determination of whether or not that is a good policy, and that is what will guide whether or not this resolution passes the House or Senate.

Mr. **Moore**. Would the gentleman yield?

Mr. **Shannon**. I yield.

Mr. **Moore**. Regardless of whether you call it a tax, it is a revenue-raising action. Does the citizen pay it? If he does, regardless of what you call it—gasoline tax, conservation fee—it is a tax.

Mr. **Shannon**. I yield back my time.

Mr. **Vanik**. I think this information is in the Weekly Petroleum Status report, but I would like to have in the record the time, the percentage, and the dollar amount of oil increases occurring since the oil embargo so that we could have a chronological chart.

Secretary **Miller**. Yes.

[The information follows:]

AVERAGE OFFICIAL OPEC PRICES BY QUARTER AND CHANGES SINCE THE EMBARGO

	Dollars per barrel		Percent increase [1]
	Average OPEC	Increase	
1973:			
Third	3.02		
Fourth	5.18	2.16	72
1974:			
First	11.36	8.34	276
Second	11.25	8.23	273
Third	11.34	8.32	275
Fourth	11.16	8.14	270
1975:			
First	10.82	7.80	258
Second	10.79	7.77	257
Third	10.74	7.72	256
Fourth	11.75	8.73	289
1976:			
First	11.76	8.74	289
Second	11.76	8.74	289
Third	11.78	8.76	290
Fourth	11.78	8.76	290
1977:			
First	12.74	9.72	322
Second	12.76	9.74	323
Third	13.01	9.99	331
Fourth	12.99	9.97	330
1978:			
First	12.96	9.94	329
Second	12.94	9.92	328
Third	12.92	9.90	328
Fourth	12.91	9.89	327
1979:			
First	13.79	10.77	357
Second	17.08	14.06	466
Third	20.14	17.12	567
Fourth	23.49	20.47	678
1980:			
First	28.97	25.95	859
Second	29.35	26.33	872

[1] Reflects increase over 1973 third quarter.

AVERAGE OFFICIAL OPEC PRICES BY QUARTER AND QUARTER TO QUARTER CHANGES

	Dollars per barrel		Percent increase [1]
	Average OPEC	Increase [1]	
1973:			
Third	3.02		
Fourth	5.18	2.16	71.5
1974:			
First	11.36	6.18	119.3
Second	11.25	−0.11	−1.0
Third	11.34	.09	0.8
Fourth	11.16	−.18	−1.6
1975:			
First	10.82	−.34	−3.0
Second	10.79	−.03	−.3
Third	10.74	−.5	−.5
Fourth	11.75	1.01	9.4
1976:			
First	11.76	.01	.1
Second	11.76	0	.0
Third	11.78	.02	.2

AVERAGE OFFICIAL OPEC PRICES BY QUARTER AND QUARTER TO QUARTER CHANGES—Continued

	Dollars per barrel		Percent increase[1]
	Average OPEC	Increase[1]	
Fourth	11.78	0	.0
1977:			
First	12.74	.96	8.1
Second	12.76	.02	.2
Third	13.01	.25	2.0
Fourth	12.99	−0.2	−.2
1978:			
First	12.96	−.03	−.2
Second	12.94	−.02	−.2
Third	12.92	−.02	−.2
Fourth	12.91	−.01	−.1
1979:			
First	13.79	.88	6.8
Second	17.08	3.29	23.9
Third	20.14	3.06	17.9
Fourth	23.49	3.35	16.6
1980:			
First	28.97	4.48	15.5
Second	29.35	.38	1.3

[1] Reflect increase over previous quarter.

Mr. VANIK. What has been the stated reason for these increases? In other words, hasn't it been a depreciation of the dollar and the failure of America to respond with a plan of conservation?

Secretary MILLER. In my view, there have been a series of reasons. The original oil price increase was the effect of OPEC getting together and having adequate control over major supplies to force a price increase, as a cartel can, because it had a central product that was needed by nations of the world, and a cartel was able to impose a price increase, but the impact upon the world economy caused that cartel to rethink its position as the world fell into recession after the 1974 price increases. Demand dropped and many of the OPEC nations had development plans of their own requiring money, so they were willing to continue to supply for several years at a relatively flat price.

But the recovery of the world economies in later years and the dropoff of supply from a number of sources led to a tightening of supplies and particularly in Iran where the revolution led to a curtailment of supplies that set off another opportunity.

So, you have two large price increases in the decade, one being in 1974 and one being in 1979. In between 1974 and 1979, the price did not go up significantly, so it is those events that caused it.

The dollar was talked of as a factor in pricing, but it could not have been a factor for the last 18 or 20 months because the dollar has been stable, so you have not heard it discussed as a reason for raising the price of oil. If oil had been placed in a currency, it would cost us less because the dollar depreciated about 8 percent against the currencies of other countries. The reasons were related to supply/demand in a very broad sense at a particular time in history.

Mr. VANIK. Mr. Secretary, there are no further questions. I want to express the gratitude of the subcommittee for your very extended time this morning and your response to the questions raised by members. I think you made some progress this morning. I don't want to promise you that it was very much.

The subcommittee will meet at 1:30 to begin markup.

Secretary Miller. I want to say in closing, Mr. Chairman, I know I did not come here on the most popular issue at this time, and I want to express my appreciation for the courtesy extended to me. We may not all agree on this issue, but the fact that we can discuss it frankly and openly with such good feeling in seeking a sound answer, I much appreciate.

Mr. Vanik. Thank you very much, Mr. Secretary.

The subcommittee will stand in recess until 1:30. Immediately after our subcommittee meets, the full committee will meet on the airway trust fund legislation.

[Whereupon, at 12:20 p.m., the hearing was adjourned.]

[The following was submitted for the record:]

Statement of Hon. Adam Benjamin Jr., a Representative in Congress From the State of Indiana

Mr. Chairman, I wish to thank you and the members of the Subcommittee on Trade of the Committee on Ways and Means for allowing me the opportunity to express my opposition to the President's Oil Import Fee Program.

I commend you for providing for the prompt public consideration of the President's proposal.

On March 14th President Carter, in explaining his antiflation program, announced his intention to "impose a gasoline conservation fee on imported oil." He said that he would later submit to Congress a request for a specific gasoline tax which will replace the conservation fee."

Implicit in the replacement of the "conservation fee" with a "gasoline tax" is the reality that the fee is nothing more than a $10.3 billion tax.

With approximately 114 million automobiles in the United States the tax levied is approximately $90 per vehicle. To suggest that such a tax would work to our benefit by reducing oil consumption ignores recent substantial declines forced by explosive price increases. It is also insensitive to the needs of workers who do not have mass transit available to them and to others who must make trips of necessity in their automobiles.

The tax proposed is regressive. As noted by Congressional Research Service studies, most find the gasoline tax, like any other excise tax, to be regressive (i.e., taking a higher percentage of lower income than higher incomes).

Submitted as an element of the President's anti-inflation package, the Administration itself explains:

"The fee will raise the price of gasoline by about 10 cents per gallon, effective May 15, 1980. The direct effect of this increase will raise overall consumer prices by about one-half percentage point. The majority of this increase will be reflected in the CPI during May and June. Over the following year additional (but much smaller) indirect effects will be felt elsewhere in the economy, as gasoline costs are passed on. In total, these direct and indirect effects will increase the CPI by about three-fourths of one percentage point."

The President's proposed import fee is confiscatory, regressive and inflationary. It will not result in the production of more oil nor encourage increased conservation which has been achieved by price increases to date.

As a sponsor of H.J. Res. 531 and H.R. 6829, measures which would negate the President's action, I strongly urge the Subcommittee to act to eliminate this tax.

Thank you.

Statement of Hon. William J. Hughes, a Representative in Congress From the State of New Jersey

Mr. Chairman, I am very happy to have this opportunity to submit my views to the Subcommittee on Trade concerning the impact and operation of the oil import fee recently imposed by President Carter. I also wish to commend the Subcommittee for looking into this subject which is so central to the crucial issues of inflation and dependence on foreign oil.

As you know, the President has imposed a fee of $4.62 on each barrel of imported crude oil, under the authority granted by Section 232 of the Trade Expansion Act of 1962. The President further intends to use the Crude Oil Entitlements program to allocate the imported oil in such a way as to direct the entire cost of the fee into a gasoline price increase of approximately ten cents per gallon.

The President has further stated his intention to replace this system with a more orderly gasoline tax under legislation to be submitted to the Congress in the near future. The President's action was announced in the context of an overall program to combat inflation.

Although not specifically mentioned by the President, I suspect that he hopes that by reducing oil consumption now, we can likewise reduce the impact of future oil price increases on our overall rate of inflation. The less we depend upon oil, the less our economy will be affected by fluctuations in the price of oil.

That is a laudable effort, but I must seriously question the means the President has chosen to achieve this goal. Taxing gasoline at this point makes about as much sense as if General Washington had imposed a tax on firewood at Valley Forge. It's just going to compound and make worse an already difficult situation.

The Department of Energy's own studies indicate, for example, that a ten cent per gallon increase in the price of gasoline will reduce consumption of oil by only 100,000 barrels a day, a scant one-half of one percent of our nation's daily average use. At the same time, however, this modest savings will be achieved at a cost of over $10 billion annually to the consumers of this nation.

As such, it appears that the oil import fee will achieve only minimal results as a conservation measure, and will actually be counter-productive as an inflation fighting measure.

I am also concerned about the assumption built into the import fee proposal that Americans either cannot, or will not, conserve oil under existing circumstances, and that further measures are the only way to encourage greater conservation. That assumption is not borne out by the facts.

In particular, various statistics show that, in the absence of any additional tax, the nation has reduced its total oil consumption by about one million barrels a day this year, compared to the same time last year. Gasoline inventories are now at an all time high. Recently released API figures show an overall drop in gasoline consumption of 8 percent in the first quarter of this year compared to the same time last year. Exxon reports a 12 percent decline in that same time period.

These figures strongly suggest that dramatic conservation is already taking place as a result of a variety of efforts.

Moreover, with gasoline prices projected to reach $1.80 per gallon by the end of the year without the addition of a new tax, it can reasonably be expected that price-induced oil conservation will continue and accelerate.

Accordingly, it would seem very prudent to allow our economy to digest these inevitable price increases first before we artificially increase the price by the addition of a tax. We must recognize that, even without an oil import fee, decontrol alone is going to force our economy to absorb some seven years of domestic oil price increases over just a two year period. That is already traumatic. The addition of a tax at this point will only further compound and magnify the distortions and dislocations that will be brought about as a consequence of oil price decontrol.

Any decision to artificially increase the price of gasoline should be deferred until we have had an opportunity to fully evaluate the impact of these price increases, many of which have not yet occurred.

In a period of less than one year, we have gone from the one extreme of controlling oil prices, to the opposite extreme of decontrolling oil prices and supplementing them by means of a tax. This abrupt about face in policy—a 180 degree change of direction—is not going to help the economy one bit, particularly since a great deal of our unacceptably high inflation rate is directly attributable to oil price increases.

Just as importantly, I think we must recognize gasoline taxes for what they really are—they are a form of rationing. Instead of coupons, an individual's ability to pay is the determining factor for who gets gasoline and who does not. As such, it will hit hardest at the low and middle income working people, and the elderly living on fixed incomes. Yet, in many instances, these groups lack the means to adapt to skyrocketing energy prices.

In many regions of the country, including my own South Jersey Congressional District, practical alternatives to automobile travel are few or non-existent. People in such regions can conserve somewhat, but they still have to get to work, they still have to shop, and take care of the necessities of life. The elderly must still be able to get to the doctor or go to the pharmacy. In many instances, as my colleagues well know, people in this situation have their monthly budget worked out to the last penny. They will suffer enough trying to heat their homes and pay their utility bills in a time of 18 percent of inflation without adding to the already skyrocketing price of gasoline with a 10 cent per gallon tax.

We must also bear in mind that, to many of these individuals, the idea of purchasing a new fuel-efficient car is about as realistic as walking on the moon, given the high cost of new cars today and the record high interest rates for consumer loans. If there is any question about this, we need only look at the disastrous situation in the automobile industry today, which is suffering staggering losses with hundreds of thousands of workers laid off.

In a nutshell, the ten-cent per gallon tax won't save very much gasoline, it will add to inflation, it assumes that people aren't conserving when in fact they are; and it imposes the heaviest burden for our inflation and energy problems on those who have already suffered the most on account of those very same problems.

If those aren't good enough reasons to do away with the oil import fee, then we should be reminded that the American people just do not want new taxes. They feel, with good justification, that they are already paying more than enough taxes, and it's time for the Congress to practice some conservation.

Beyond that problem is the actual method the President has chosen to impose the tax. To his credit, he recognizes the combination of the Trade Expansion Act and the oil entitlements program is a jury-rigged system at best, and he wants to replace it with an orderly tax. Whatever his intent, however, the system he has chosen is going to be extremely cumbersome and difficult to administer and will create another bureaucratic nightmare. Moreover, it is inevitable that there will be some leakage of the import fee into petroleum products other than gasoline, such as home heating oil which is already selling for in excess of $1 per gallon.

A number of bills and resolutions have been introduced on the subject of oil import fee. My own legislation, H.R. 6954 attempts to address this problem by repealing the President's authority to impose import duties on petroleum. Others have introduced similar bills, while some members have chosen to use the resolution of disapproval approach provided under the recently enacted windfall profits tax legislation.

While I have been joined by 25 other members in sponsoring my own bill, I do not have so much pride of authorship that I would not happily support some other approach to prevent the impostion of the oil import fee. I do not believe that we should tamper with the President's authority to impose quotas on imported oil, since that step may remain an important option in the future as a means of controlling imports or exercising countervailing power against OPEC.

I do believe, however, that the concept of taxing gasoline at this point is fundamentally wrong, no matter how well intentioned.

I sincerely hope that the Subcommittee will give its favorable consideration to one of several bills and resolutions now pending that would eliminate the oil import fee.

STATEMENT OF HON. JOSEPH G. MINISH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman, members of the Committee, I appreciate this opportunity to testify on the proposed oil import fee. I commend the Committee's efforts to provide a timely forum on this matter of extreme importance.

Mr. Chairman, I am opposed to the Administration's plan to place a $4.62 fee on each barrel of imported oil. This fee, which will result in a 10 cent per gallon increase in the cost of gasoline, will hit hardest at the people who need their cars in order to work. These people have done a good job conserving gasoline.

The Administration's action will add $10 to $12 billion per year to the already-high cost of energy. Gasoline prices are 90 percent higher today than they were 15 months ago. The amount of fuel that would be saved by this action could not possibly make up for the harm that would be caused to the economy.

I am extremely concerned, as I know all the members of this Committee are concerned, about the level of oil the United States continues to import. However, over the last year, imports have dropped markedly because of the efforts of consumers to conserve energy. The proposed tax penalizes the people who have worked to conserve, while it provides only a cosmetic solution to the problem of imports.

The Administration's action to impose a new tax on gasoline is an added hardship for the people of America who must use their cars for their livelihoods. These people are already pushed to the limits of their resources in trying to make ends meet. I strongly urge the Committee to reject the tax.

STATEMENT OF HON. OLYMPIA J. SNOWE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. Chairman, members of the Committee, I appreciate this opportunity to voice my opposition to an ineffective and inflationary tax—that can only add to the already onerous tax structure facing the American people. I am confident that once my colleagues on the House Ways and Means Committee have had an opportunity to thoughtfully evaluate all of the facts, they will realize that the imposition of a $4.62 oil import fee is quite simply a mistake.

The fee will raise approximately $10 billion annually in revenues, revenues which I might point out have not been earmarked for energy-related ventures. According to Department of Energy estimates, the tax will reduce domestic oil consumption by a mere 100,000 barrels of oil per day, less than 1 percent of our daily gasoline consumption. Furthermore, the import fee will raise the consumer price index by .5 percent.

This fee discriminates against the already overtaxed Maine resident who must drive long distances. In Maine alone, the average driver's cost will increase $85 annually. In New England, the cost of the import fee to the region's drivers will be $533 million annually or, one-half of one percent of total regional personal income. Certainly you will agree these are not insignificant figures.

Once we have balanced the budget, we should be moving toward cutting taxes, not raising them, and we certainly should not be adding to the financial burden of those in rural areas like Maine who must drive to work.

As I perceive the situation, we have several factors working against each other. The import fee is of sufficient magnitude to fuel inflation. By increasing the price of gasoline, we are discriminating against those individuals living in rural states. Given that the tax is not expected to reduce consumption notably, at the $4.62 a barrel level, it is unlikely that the fee will aid in discouraging future price increases by producer governments. Some observers even believe it will signal oil-producing nations that they can increase prices without damaging the U.S. economy.

Let me assure you that I wholeheartedly support a reduction in our dependence on foreign oil. Thus far, I have endorsed several measures designed toward this end. I will not endorse, however, an inflationary measure which is inequitable and will have a negligible effect on reducing our gasoline consumption. It is even more distressing that revenues realized from this fee are to be included in that hallowed category of funds earmarked for the "mitigation of our national debt". As we all know, once funds are included under that rubric we might as well wave goodbye forever.

I speak today on behalf of a majority of my constituents in the 2nd District of Maine. We believe that imposition of this fee is irresponsible and will have dire consequences for the citizens of Maine. I am confident that once all the evidence is presented, my colleagues will realize the ill-considered nature of this oil import fee.

STATEMENT OF HON. WILLIAM C. WAMPLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. Chairman, Members of the Committee, I wish to briefly comment on my objections to the import fee on imported crude oil recently imposed by the President.

The fee is punitive in nature, in light of the facts that it will affect gasoline users only, will increase the Consumer Price Index and therefore have a negative effect on our already galloping inflation rate, and will have a negative psychological impact on consumers who managed to cut consumption by estimates of from 6 to 10 percent during 1979.

Consumers have been facing escalating gasoline prices since the beginning of decontrol, and this alone is helping the conservation effort without adding to the economic burden by the estimated large and sudden increase of approximately 10 cents per gallon. Several of the states have imposed additional taxes to meet conservation goals, such as the Commonwealth of Virginia, further increasing the burden on those persons living on low and/or fixed incomes, and on those persons in rural areas without mass transit who must rely on automobiles for their livelihood or for transportation to their place of employment—often as much as 50 miles daily.

This action by the President will not increase our energy supplies and it appears to be only a method of raising revenue without congressional approval. Consumption savings will not be commensurate with the cost levied on the consumer, according to the recent predictions I have seen.

Instead of levying this additional fee on a basic necessity, we should conserve by using alternate fuels where possible. Development of alcohol fuels for motor fuel is an alternative I have long supported to further extend our available gasoline supplies. Also, conversion of coal-capable powerplants which use costly oils should be encouraged by this government. A greater commitment to coal in this manner and through the development of synthetic fuels can help to free our available oil supplies for uses where this fuel is not easily substituted.

A commitment to the development of alternative fuels, rather than a punitive "fee" on imported oil that effects the segment of our citizens least able to bear the burden, will ultimately be the better choice in solving our energy dilemma.

AIRCRAFT OWNERS & PILOTS ASSOCIATION,
Washington, D.C., May 5, 1980.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. VANIK: This responds to the invitation conveyed in Trade Subcommittee Press Release #61 (April 30, 1980) to submit written comments on the Administration's oil import fees. We would appreciate inclusion of this letter in the hearing record.

We oppose the imposition of the crude oil import fee. We feel that to fight inflation with inflation represents a rather convoluted form of logic and we believe the potential energy savings benefit will be more than offset by the depressive economic impact which the fees are likely to have.

We are quite concerned about how the program will be administered. Within noncommercial or general aviation, the fee is likely to exacerbate the existing price spread between aviation gasoline (avgas) and turbine fuel (kerosine or jet fuel). We feel that to single out gasoline for the energy conservation tax further burdens the most fuel-efficient segment of the aviation community. We believe that greater utilization of reciprocating engine (gasoline) powered aircraft and diversion from other less efficient transportation modes would contribute to energy savings. General aviation exports contribute significantly to our balance of trade and any erosion of those exports will impact upon our trade balance.

We urge your committee not to extend this fee or enact a permanent import oil tax.

Sincerely,

JOHN L. BAKER, *President.*

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., May 7, 1980.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Trade, House Committee on Ways and Means, Washington, D.C.

DEAR CONGRESSMAN VANIK: The American Farm Bureau Federation is opposed to the oil import fee action recently announced by the President. This action would result in a 10-cent-per-gallon increase in the price of gasoline. Consumers, including agricultural users, who are now exempt from the federal fuel tax would not be exempt from this new import fee.

Government-caused inflation is the cause of the present and longer-term economic problems in agriculture and the rest of the economy. In late 1979 USDA projected a 20-percent drop in 1980 net farm income below the 1979 level of $33 billion. Recent projections point to a 25-percent decline to near $24 billion. The fundamental reason for the depressed farm income situation is that increases in production costs are substantially outpacing increases in farm revenues.

The oil import fee would simply make an already bad farm income outlook even worse by futher increasing farm production expenses. The cost of the import fee would be absorbed by farmers and ranchers who, unlike many other businesses, simply cannot pass cost increases through to consumers in the short run.

Approximately 50 percent of the motor fuel used by production agriculture is gasoline. For 1980, agricultural use is projected to be about 3.1 billion gallons. Much of this annual use will occur in the spring planting season that is well underway. Farmers will not be able to make the immediate adjustments to this higher goverment price for gasoline by curtailing spring cultivation and planting practices.

We fail to see that alleged conservation benefits in the President's oil import fee since conservation is already taking place in response to higher market prices for gasoline. Gasoline consumption has decreased dramatically in recent months and stocks, in relation to consumption, are at a very high level. Further consumption adjustments are likely as real energy costs increase.

Since the President's oil import fee is not needed for additional conservation the revenues generated by the fee are another way to increase federal revenues rather than cut expenditures in order to balance the budget. Farm Bureau opposes this concept in principle.

Farmers and ranchers continue to make adjustments in production practices to achieve energy conservation and efficiency; but these changes will take time and capital investments.

In the last several months production agriculture has had 18-percent inflation, a grains embargo, transportation strikes and numerous federal regulatory costs to bear. The farm economic situation and outlook vividly describe the impact of these adverse events. We simply cannot afford the additional tax burden of the President's oil import fee.

We will appreciate your consideration of our views during the Subcommittee's hearings on the oil import fee. We respectfully ask that our views be made a part of the hearing record on this matter.

Sincerely,

VERNIE R. GLASSON,
Director, National Affairs Division.

CHAMBER OF COMMERCE OF THE UNITED STATES,
Washington, D.C., April 28, 1980.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the Chamber of Commerce of the United States, I wish to express to you our disapproval of the fee on oil imports imposed by President Carter on April 2. The fee is inequitable and is not sound economic or energy policy.

The oil import fee increases federal revenue at a time when federal revenues are already taking a greater percentage of the total value of goods and services produced than over before. The prevailing public need is to reduce taxes, not increase them.

We doubt the need at this time to impose new measures to achieve gasoline conservation. Market forces are working to reduce energy use—especially gasoline. Recent figures indicate there has been a 10 percent reduction in gasoline consumption since last year. Additional conservation is expected as the price of oil increases in coming months due to phased decontrol.

Demand responds to price and supply, even for gasoline. This relationship should not be distorted by new and unnecessary regulatory mechanisms, such as would be required in an attempt to collect the fee on oil imports strictly on gasoline sales.

There is a strong sentiment for regulatory reform in the country, in the Administration, and in the Congress. The President's imposition of an oil import fee, with its complicated regulatory procedures, clearly goes in the wrong direction. Also, imposing new regulatory procedures is counter to our national policy to decontrol oil prices and dismantle their associated regulatory apparatus.

If the Administration wants to increase the price of petroleum by artificial mechanisms, and if the mechanisms are intended to add to the federal treasury, there should be open debate—and the Congress and public should have an opportunity to comment. If there is a strong voice for raising prices above a decontrolled market, then Congress should debate new gasoline taxes.

Cordially,

HILTON DAVIS,
Vice President,
Legislative and Political Affairs.

STATEMENT OF MICHAEL PODHORZER, LEGISLATIVE DIRECTOR, CONSUMER FEDERATION OF AMERICA

Consumer Federation of America is a federation of 240 national, state and local non-profit organizations that have joined together to advance the consumer viewpoint. CFA and its member organizations represent over 30 million consumers throughout the United States. Included among our members are state and local consumer groups, consumer cooperatives, trade unions, national and regional organizations, and rural electric cooperatives.

On May 15, 1980 motorists will pay $30 million more than they did the day before. Over the course of a year that is an additional $10.5 billion. As a result a full point will be added to the inflation rate.

The culprit is not an Arab Sheik nor a big oil conspiracy—but the fee imposed on imported oil by the Administration in March. Although President Carter presented the fee as an essential component of his energy policy, close scrutiny reveals that the fee is primarily a device to raise revenue.

The import fee fails any reasonable test of effective energy policy. The benefit is the small drop in consumption that will occur as a result of the 10¢ a gallon increase—estimated by the Administration to be 36.5 million barrels. At a cost of $10.5 billion, 36.5 million barrels is no bargain. Simple arithmetic shows that that's $280 per barrel saved. The cost of the barrel of oil the President is hoping to displace—OPEC oil—is only $30.

According to many experts the Administration estimate of reduction on consumption is too low and hence the cost per barrel saved is even higher. For example, the Congressional Budget Office estimates that the annual gasoline savings the first year will be only 29.2 million barrels. The following table sets out the cost per barrel saved between Fiscal Year 1981 and Fiscal Year 1985.

Fiscal year	Total revenues [1]	Barrels saved [2]	Cost per barrel saved
1981	10.0	26	$385
1982	13.4	27	496
1983	15.0	33	455
1984	16.9	33	512
1985	19.2	37	519

[1] In billions of dollars

[2] Millions of barrels

Indeed, if the President really believed that cutting consumption were important enough to warrant spending $10.5 billion he should have spent those funds on programs which are cost effective such as expanded mass transit, and improved automobile efficiency. But instead the Administration has cut funding for mass transit by $265 million and for the conservation bank by $320 million, and has backed down from supporting legislation to increase fuel efficiency in U.S. automobiles.

Imposition of the fee will also exacerbate many of the nation's most serious problems. The CBO estimates that the fee will add a full point to an inflation rate which is already an intolerable 18 percent per year. The inflationary impact of the fee will be felt not just at the pump, but in the prices of all goods which must be transported, particularly food. Furthermore, by reducing the demand for automobiles by approximately 150,000 vehicles, the fee will add to an unemployment rate that has reached 7 percent, and create even greater hardships for workers in an industry already experiencing widespread layoffs.

The validity of the program is thrown further into doubt because the statute the President is using as his authority for the fee requires that it lead to a decline in imports. There is no reason to believe, and there is no mechanism in place to require, that any reduction in consumption that occurs as a result of the fee will translate into a reduction in imports. It is just as likely that the major oil companies will simply reduce their domestic production instead. This point was made several years ago by Charles Schultz before he became Jimmy Carter's Chairman of the Council of Economic Advisers:

"The nature of the world oil market has changed dramatically in the past 5 years. The giant international oil companies, the majority of whom are U.S. corporations, still play a critical, but a substantially different role. It is not at all obvious that the relationships they now have with the U.S. Government and with the oil-producing countries serve the best interests of the Nation.

"Let me give some examples: Everyone more or less automatically assumes that a reduction in consumption in the United States will come out of imports. Imports are thought of as a residual—the balancing difference between domestic demand and domestic supply. But it is possible that when comsumption is reduced the major oil companies take part of this reduction in the form of reduced domestic production. They have long-term interests abroad. Even though their properties are rapidly being nationalized, they want to preserve favored access to the nationalized oil.

"Hence, they may find it in their own long-run interest to maintain good relationships with other OPEC countries and to import into the United States a larger volume of oil than purely short-run market considerations would justify."

Combine the implausibility of the fee as rational energy policy with the fact that the President announced the fee as part of a package to balance the budget and it becomes obvious that the fee is a tax, pure and simple. This fact is recognized by Congressional leaders, energy experts and the press.

The problem for the President is that if he were forthright and called the fee a tax to raise revenues for the federal government, it would be unconstitutional. The Constitution reserves the power of taxation to our elected representatives—the Congress. Thus, the President's unilateral action is in a very real sense taxation without representation.

Finally, this tax is also horribly regressive. It imposes twice the proportional burden on the poorest fifth of the country that it does the richest fifth and falls heavily on the working middle class. This is at a time when corporate tax rates are shrinking and loopholes available to the wealthy are widening.

STATEMENT OF THOMAS H. GIBSON, CHAIRMAN, LEGISLATIVE COMMITTEE, NATIONAL CAVES ASSOCIATION, FRONT ROYAL, VA.

The National Caves Association is a voluntary banding together of the owners/operators of the 164 privately owned, commercially operated Caverns attractions in the United States.

The membership of the National Caves Association oversees the preservation and protection of 164 unique assets to the United States. In protecting these assets, great care is shown to preserve the fragile ecology of the world below. Rare species of bats, snails, crawfish and members of the beetle family make their homes in subterranean passageways and pools of water.

Through careful, painstaking development of these caverns, it is practical to take escorted tours of interested people through to view firsthand the magnificent formations, great chambers and vaulted ceilings of the world below. In the last year for which figures were gathered from the NCA membership, it was found that almost fifteen million persons enjoyed a visit to at least one caverns attraction in the U.S. By their visits they enabled the attractions to provide employment, often virtually the only non-agricultural or manufacturing employment in many areas of the country today.

Today, that employment is being threatened, the continued protection and preservation of many caverns attractions is being placed in danger, by most unwise actions of the Administration. One of the most unwise actions is the imposition of an "import fee" of 10 cents per gallon on motor gasoline.

By this action, motor gasoline will increase by this amount per gallon when the newly taxed product reaches the service stations. Various reasons for imposing this fee have been advanced.

(1) Our oil imports are one of the main reasons for our high rate of inflation today. To this we say: Then explain how it is that two nations today have much lower rates of inflation, much more stable currencies and much more viable economies than the U.S., yet each (Japan and West Germany) import virtually all of the oil they consume. Japan it is understood imports 100 percent of her oil; West Germany imports at least 97 percent of her oil; the U.S. is currently importing about 45 percent of the oil we consume. Somehow these figures simply don't add up the way our leaders would like us to believe they do.

(2) By imposing this special tax, it is felt driving will be curtailed by the American people, and this then, will enable us to fight inflation. To this we say: But at what cost? Today there are about 4½ million jobs in tourism across the country—including the jobs of those employed as members of the National Caves Association. These are the front line jobs—there are over a million more jobs in back up and support services to the travel industry. This makes for a total employment in travel and tourism of 5½ million persons. If travel is substantially reduced again this year there will be widespread business failures of facilities now serving the traveling public. It is feared there will be failures of some of those now operating caverns attractions. The 1979 disaster caused the failure of at least one caverns attraction. It should be noted here that it has been admitted by members of the Administration this new tax will not reduce inflation, but will add as much as one-half point to it.

Apart from the widespread economic damage—to our auto industry as well as travel and tourism—from this import fee, this action represents another flip flop on the part of the administration. One of the principal objectives of any national energy policy has been to get rid of the entitlements system. This has been a regulatory nightmare under which refiners of domestic oil subsidize refiners of imported oil. With the 10¢ per gallon gasoline tax, the administration is, in effect, proposing a new entitlements program—superimposed on the old one. You don't need entitlements, of the bureaucracy to administer them, if there is only one price for oil. About a year ago, a phased decontrol was announced as administration policy. (It should also be noted the windfall profits tax was supposed to substitute for the entitlement fees.) The phased-in decontrol was to keep the price at the pump from jumping up suddenly, thus disrupting our economy. So now comes the flip flop in policy—having started on decontrol, the administration suddenly decides to create a two-price oil market—and a brand new entitlements program to go with it. Under this scheme, refiners will have to obtain entitlements to refine gasoline. All the bizarre results of this brand new regulatory nightmare cannot be known in advance.

The effect, however, will not be to discourage imports of OPEC oil—the importers will be reimbursed for the fee—the effect, rather, will be to discourage the production of gasoline. Refiners can duck at least some of the tax by increasing production of diesel fuel, fuel oil and other products. An incentive now exists for refiners to move away from maximum production of gasoline—to whatever extent they can. This will increase the likelihood of supply tightness and a return to gas lines this summer.

The members of the NCA feel the program will accomplish the following: (1) An increase in the rate of inflation: (2) an increase in unemployment in the field of travel and also in the auto industry; (3) produce new layers of regulation.

We feel the program will not accomplish the following: (1) reduce oil imports to any significant degree; (2) assist our nation's struggling economy; (3) assist in producing a truly balanced budget.

We suggest instead the following be done: (1) scrap the oil import fee; (2) Proceed faster with crude oil decontrol, as this would accomplish the same basic objective of forcing an increase in the price of gasoline, which would result in a reduction in demand to some degree; (3) this approach would avoid both the incentive to produce less gasoline, thus strangling our economy; and a new layer of regulation—and the bureaucrats to go with it. We don't need additional regulation fouling up the marketplace, as DOE did so neatly in 1979.

The membership of the NCA thanks you for your attention to this statement.

NATIONAL GRANGE,
Washington, D.C., April 25, 1980.

Hon. CHARLES VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to express to you and the committee members the appreciation of the National Grange for holding hearings on the oil import fee imposed by the President on April 2, 1980.

The National Grange opposes this fee which is imposed in the name of conservation when in fact it is a tax measure levied in an attempt to balance the budget. It is my understanding that the authority to levy taxes on the American public rests with the House of Representatives.

The rapid increase in the price of energy has reduced consumption by the American public and there is every indication that prices will continue to rise and consumption will continue to decrease.

Based on projections by the U.S. Department of Agriculture, farmers will use 3.476 billion gallons of gasoline in 1980. These figures include on-farm use and the use of automobiles and trucks for conducting farm business. They do not include the use of these vehicles for family trips or other non-farm related activities. This converts to a direct cost to farmers of approximately $347,000,000, or over $100 increase in annual taxes for the average farmer. For some farmers the figure would be much higher.

Farmers are currently faced with low commodity prices, high production costs for items such as fuel and fertilizer, high interest rates and a scarcity of credit. Farmers have no way of passing on the additional cost by raising their prices and they can ill afford an additional inflationary tax at this time. American consumers can ill afford the additional increase in food costs brought about by the higher transportation and marketing costs that the fee will impose.

This gas tax will affect all Americans but it will be especially hard on rural residents. In most cases they must travel much further to work, to obtain medical services, to buy food and for other human needs. They cannot switch to mass transit to serve these needs, so they will be faced with higher costs without any alternatives.

I strongly urge you to support the House Joint Resolution in opposition to the President's import fee.

Sincerely,

EDWARD ANDERSEN, *Master.*

STATEMENT OF EDWARD F. RENSHAW, DEPARTMENT OF ECONOMICS, STATE UNIVERSITY OF NEW YORK AT ALBANY

SUMMARY

Using some of the proceeds from the oil import fee for tax-reducing disposal-credits to encourage the early scraping of motor vehicles with poor fuel economy would bolster the demand for both new and used automobiles and provide disproportional benefits to those individuals and firms that have been hurt the most by higher gasoline prices.

It is suggested that the remaining proceeds from the oil import fee be earmarked for the reduction of social security taxes.

STATEMENT

The United States is now in the midst of the second auto induced recession in less than a decade. After the oil embargo of 1973 and the four fold increase in the price of imported oil in January 1974 employment in the motor vehicle manufacturing industry fell 28.3 percent and caused several hundreds of thousands of persons in closely related industries to lose their jobs.

At the deepest point of the 1975 recession more than 300,000 autoworkers were laid off. Layoffs in the current recession have now risen to more than 263,000 workers and there are predictions that this total will soon exceed the record for 1975. The outlook for a rapid recovery is not very bright.

In 1970 there were only about 75 registered trucks, buses, and automobiles in the United States per 100 persons aged 16 and over. This figure has since risen to about 95 vehicles per 100 persons old enough to obtain a drivers license. The rapid increase in the number of motor vehicles means that about half of all the automobiles purchased in the last decade were for growth rather than replacement.

A further implication of these numbers is that we may now be so close to a condition of motor vehicle saturation that the domestic auto industry could remain in a profound slump for an extended period of time unless something is done to encourage motorists to quickly trade-in their old gas guzzling automobiles for American-built cars that are more fuel efficient.

Automobiles have a tendency to last a long time. A recent study by the Hertz Corporation suggests that 45 percent of U.S. cars are still on the road after ten years of use. It is not until the eleventh, 12th and 13th years that reasonably well maintained cars, that are not involved in serious accidents, wear out. If higher gasoline prices cause the owners of gas guzzling vehicles to drive them fewer miles per year there is a possibility that these cars will remain in use for an even longer period of time in the future.

To reduce our dependence on imported oil and bolster the demand for cars that are more fuel efficient it is proposed that the federal government pay authorized dealers a tax-reducing disposal credit of say $500 each gas guzzling vehicle under nine years of age which they take in in trade and sell for scrap. A credit of $300 might be paid for gas guzzlers in the nine and ten year age bracket and $100 for any gas guzzler that has been continually registered for more than ten years.

A gas guzzler might be defined as any car or light duty van or truck with an EPA combined fuel cycle rating of say 12 miles per gallon or less. This would confine the gas guzzler designation to types of vehicles which are no longer being produced in the United States. Older model cars without an EPA rating could be assigned to the gas guzzler class at the discretion of the Department of Energy or on the basis of a testing procedure similar to that used by EPA for new vehicles. To prevent the owners of automobile junk yards from obtaining windfall profits, credits might be limited to only those vehicles which were licensed to operate as of say January 1, 1980.

It is suggested that the credits only be paid to the authorized dealers of the companies that made the gas guzzlers to be scrapped and that they be required to pass through to consumers the full amount of the credit in any deal involving a trade-in. This type of restriction would make it easier to supervise the scrapping of obsolete vehicles and would also give the distributors of American built cars an advantage in offering the kind of deals that are needed to help recapture a replacement market that is rapidly being lost to foreign automakers.

Such a restriction would be particularly helpful to the Chrysler Corporation and its beleaguered dealers. If that company is allowed to go bankrupt U.S. taxpayers will not only be obligated to payoff insured loans of up to $1.5 billion but will also be required to pay more than $1 billion in federally guaranteed pension benefits to its former employees.

United Auto Workers President Douglas Fraser has proposed a tax-credit to persuade people to trade in their old cars for smaller, new American cars. The tax incentives would be aimed at motorists who own cars about 10 years old that get less than 10 miles per gallon.[1]

One of the problems with this proposal is that a tax-credit restricted to the purchase of a U.S. made car might be considered a violation of the General Agreement on Tariffs and Trade. Since many American jobs are dependent on exports it is probably better to link financial aid to our troubled auto industry to the scrapping of old gas guzzlers (most of which were produced by American companies) rather than the purchase of a new vehicle manufactured in this country.

Another problem with a tax-credit for the purchase of a new American built car is that most people who drive old gas guzzlers cannot afford the insurance, depreciation, interest, and other costs associated with a new car. These items can more than double the per mile cost of owning and operating a motor vehicle.

Statistics compiled by the Hertz Corporation suggest that almost 75 percent of all cars that are sold each year in the United States are used cars. New American built cars are purchased mainly by affluent families, corporations, salesmen and persons that can charge a large portion of the initial purchase price to business related expenses. Only 43 percent of the 8.1 million domestic cars sold in 1979 were purchased by individuals purely for their own driving.[2]

To discourage businessmen from buying and operating vehicles that are not fuel efficient Congress should seriously consider the possibility of eventually prohibiting in say 1982 any depreciation charges to be deducted from business revenues if a passenger car or light duty truck or van does not meet or exceed the national fuel economy goals. For if businessmen do not purchase fuel efficient vehicles it will be far more difficult for persons that cannot afford a new car to conserve energy without sacrificing mobility.

Since very few cars, vans, and light duty trucks with extremely poor fuel economy are now being produced, however, and since most cars that are purchased by businessmen are usually resold to less affluent individuals after a year or two of use, it is not unreasonable to suppose that most of the really bad gas guzzlers that are now on the road are owned by families with low and moderate incomes. It is these families that have been hurt the most by rapidly escalating prices for gasoline. They would benefit from a disposal credit by being able to obtain enough trade-in value from their old gas guzzler to finance another used car with better gas mileage.

Poor people would not be the only beneficiaries, however. One of the more attractive features of a disposal credit system is that it would help to increase the market value of all gas guzzling automobiles regardless of whether they are ready to be scrapped or not. This would make it more feasible for the owners of relatively new gas guzzlers to trade in their cars for new automobiles with greater fuel economy. The market for new cars, in other words, would be improved not only by a shrinkage in the supply of old cars but by a significant improvement in the net worth of many middle income families that might otherwise be locked into driving their newish gas guzzler until it collapses of old age.

That type of behavior could turn the mild recession which was predicted for 1980 into a much more serious and prolonged slump than was anticipated by the President's Council of Economic Advisers.

With unemployment rising at a rapid rate there is almost sure to be a call for tax-cuts to help rescue the U.S. economy from the third recession in a decade.

In the stampede to get the U.S. economy growing again there is a possibility that the oil import fee which was recently imposed by the President with the intent of increasing the price of gasoline about 10 cents a gallon will be a tax-cutting casualty. The elimination of this import fee, without a corresponding increase in the federal tax on gasoline, would be unfortunate, however, since higher taxes on gasoline are needed to discourage unnecessary driving and reduce the deficit in our balance of payments.

Since the discovery of about two years supply of new oil at Prudhoe Bay in 1968, the total additions to proven oil reserves from new oil fields discovered in the

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[1] Albany Times-Union, April 30, 1980, p. 31.

[2] William G. Flanagan, "Computing Real Costs of Owning a New Car," The Wall Street Journal, February 11, 1980, p. 38.

United States have averaged less than ten percent of the oil that has been consumed in this country. Crude oil production in and adjacent to the lower 48 states, as a consequence, was about 25 percent less in 1979 than in 1970.

If some remarkable projections which were made by the distinguished petroleum geologist M. King Hubbert in 1962 continue to forecast output rather well, U.S. oil production outside Alaska will continue to decline and be about 37 percent lower in 1985 than in 1970.[3] Only part of this decline can be offset with increased oil production from Alaska.

If we don't make a concerted effort to get gas guzzling automobiles off the road fairly quickly our economy could continue to be buffeted by repeated recessions stemming from rapidly escalating prices for imported oil.

Using the proceeds from the oil import fee to reduce social security taxes and to finance the early scrapping of motor vehicles with poor fuel economy is particularly attractive at this time since it would help those who are most in need of financial assistance and come directly to grips with a root cause of the current recession.

STATEMENT ON BEHALF OF THE SERVICE STATION DEALERS OF AMERICA (FORMERLY THE NATIONAL CONGRESS OF PETROLEUM RETAILERS), BY JACK W. HOUSTON, ACTING EXECUTIVE DIRECTOR

Mr. Chairman, thank you for allowing us the opportunity to insert into the record of this hearing the views of the Service Station Dealers of America (SSDA). We represent 60,000 gasoline dealers located throughout 38 states, the District of Columbia and Puerto Rico.

The proposed oil import fee has been wrongfully tilted to gasoline only. Users of crude oil and its by-products, other than gasoline, are encouraged to increase usage of imported oil to the detriment of motorists generally, and more particularly, of the economic well-being of our nation.

The resulting 10 cents-a-gallon tax burden on gasoline is an unreasonable and unrealistic, as well as unworkable, method to bring about significant conservation of gasoline. Also, the adverse inflationary effect is much more damaging to Americans than the damage suffered because of the consumption of the oil it is intended to conserve.

Enforcement of the 55 mile-per-hour speed law would conserve more oil than the import fee would cause to be conserved; and the fires of inflation would not be fanned in the process. Other similar approaches could be less inflationary and more effective in accomplishing the goals of energy conservation.

There is no guarantee that the imposition of the import fee will actually cause the price of gasoline to rise 10 cents at the retail pumps, in which case the expected conservation effort will be defeated. Supply has improved. Some oil companies may choose, under DOE regulations, to "bank" the higher cost to hold lower prices so as to maximize sales volumes. This alone would defeat the intended purpose. The consumer would pay the fee at some later date during a period of shortage. Still, retail dealers who are being urged by their suppliers to sell more product would likewise be encouraged to sacrifice a portion of the increase in wholesale price attributed to the import fee. Here again this would tend to partially or completely defeat the intended purpose of the import fee.

The big question is, could the import fee be a ploy for a big hike in the federal tax on gasoline to help balance the budget? Is this to acclimatize consumers to acceptance of still higher tax burdens on gasoline? Five million voters of this country said "NO" to huge gasoline taxes when polled in 1975 by this association. There is no reason to believe consumers will accept unnecessary taxation as a means of rationing gasoline.

There is another adverse effect of higher gasoline prices unnecessarily caused by government fees and taxes. Thousands of small business gasoline retail dealers and others in the industry are crippled financially when faced with wholesale price increases that require them to increase their operating capital. Many will go out of business because they cannot raise the additional funds, or because government will not allow them to recover the cost of borrowing the additional funds they must have to continue in business.

A squeeze-down of imported oil by 2% from the 1978 or 1979 level is an alternative to using price to deter consumption and it would produce immediate results without directly contributing to inflation as does the imposition of the import fee. Had we begun our squeeze-down of imported oil as proposed in H.R. 7014 (1975) along with the reduction of refining by an equal amount, we would be well on the way toward energy self-sufficiency by now. As was then contemplated, some means of control-reduction in imports and control-reduction in refining would have forced Americans to conserve and would have forced Americans to demand more energy-efficient automobiles, etc.

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[3] Edward and Perry Renshaw, "U.S. Oil Discovery and Production," Futures, February 1980, pp. 58-66.

The impact of the import fee on consumers who can least afford it is serious. With such a large portion of all gasoline in this country being consumed for essential purposes, it is time to deal more fairly with the motorists of America. Minimizing energy costs ought to be the rule, not the exception, as it is by refusing to allow retail dealers a right to cover their total cost for providing services with the sale of gasoline. The import fee will not result in a significant reduction in gasoline consumption. It should not have been imposed and it should not, therefore, be allowed to take effect.

STATEMENT OF GREGG R. POTVIN, ON BEHALF OF TEXAS OIL MARKETERS ASSOCIATION

Mr. Chairman, thank you for this opportunity to appear and present the views of the Texas Oil Marketers Association (TOMA). TOMA is a nonprofit association representing the majority of independent marketers of petroleum products at the wholesale and retail levels within the State of Texas.

A great number of other witnesses have preceded TOMA in setting forth the harsh and inequitable impact of the President's proposal to place the entire burden of the import fee on crude oil upon gasoline. TOMA is convinced that the fee itself is ill conceived and counter productive. If the Administration persists on imposing such a fee—at the very least it should be distributed among all the products made from a barrel of crude—not placed solely upon gasoline which is already subject to an adverse "tilt" under Department of Energy Regulations.

The primary purpose of this statement, however, is to make a related but separate point not yet covered by other witnesses: the Carter dime a gallon on gasoline carries with it substantial elements of market subsidization for integrated refiner-marketers vis-a-vis independent marketers.

It is highly ironic that, just this week, the long awaited report of the Office of Competition at the Department of Energy on Subsidization by Refiners of their direct retail outlets has finally been issued. It has been a major disappointment to independent marketers that this flawed and misleading report has ignored jobber and dealer data and declined to acknowledge the existence of marketing subsidization by integrated refiners.

Now—this same administration proposed to place a dime a gallon on gasoline which must be paid up front by jobbers and by dealers. Please bear in mind that for an individual dealer receiving a 10,000 gallon transport load of gasoline—this will mean coming up with an additional $1,000. For jobbers the amounts involved will, of course, be far larger.

Refiner operated stations, on the other hand, will collect from their motorist customers a dime at a time and then—I am informed—have a leisurely 15 days within which to remit.

This is obviously going to constitute a very substantial subsidy for direct refiner retailing. In today's money market the necessity for additional capital poses extremely severe problems for small businessmen in terms of both cost and availability. As an example, a medium sized jobber selling 12 million gallons of gasoline a year would have to pay—in advance—an additional $100,000 each month.

Even standing alone, this is a severe burden. Placed in context, it is far worse.

At the present time many refiner suppliers—despite DOE regulations—are shortening the time within which jobbers must pay for gasoline. One supplier has lessened the payment period from 18 days to 10, or at most 11 days. This has required additional capital in the amount of three to four hundred thousand dollars for many medium sized jobbers and even more for larger jobbers.

Simultaneously some refiners are paying jobbers at a slower pace. Credit card sales slips for items other than gasoline are no longer applied against the amount owed by the jobber for gasoline. Instead they are tabulated separately and a check is then sent the jobber by the refiner. This involves an 8 to 10 day delay in the funds being actually available to the jobber.

Some refiners—as a result of the increased amounts of money required to maintain inventory are requiring jobbers to use their homes and other personal assets as additional security for their credit line. This is in addition to the corporate-business liability the jobber has historically given (and the refiner has accepted) for the credit line.

So—Mr. Chairman as you can see this is scarcely the time to impose an additional crushing blow to independent petroleum marketers—particularly so when it is done in a way that subsidizes the multi-national integrated giants with whom we must compete.

Thank you again for permitting this presentation of TOMA's views.

STATEMENT OF DAVID J. STEINBERG, PRESIDENT, U.S. COUNCIL FOR AN OPEN WORLD ECONOMY

(The U.S. Council for an Open World Economy is a private, nonprofit organization engaged in research and public education on the merits and problems of achieving an open international economic system in the overall public interest.)

From the very inception of mandatory oil-import controls in 1959, the national-security clause (section 232) of the foreign-trade legislation seems to have been little more than a legalistically convenient instrument for action intended for other purposes. It has most recently been involved as the legal basis for the President's decision to impose a special fee on oil imports. The President's April 2 announcement to this effect made passing reference to the need to counter a threat to national security posed by the nation's heavy dependence on foreign oil. But nowhere is there a clear, coherent exposition of how this oil import levy, whose pass-through to the consumer is to be limited to gasoline purchases only (boosting prices at the pump by 10 cents a gallon effective May 15), advances the nation's security in the fullest definition of the term. This definition must, inter alia, take account of the effect on the various regions of our country, the various sectors of our economy, the international competitiveness of our industries, and the need to combat inflation. The need for an oil-import fee and for a resulting increase in gasoline prices should be related to a comprehensive energy strategy that convincingly addresses the nation's economic and national-security needs. There does not appear to be such a coherent strategy.

The only attempt at detailed explanation of the fee has been in the context of the President's March 14 announcement of his anti-inflation program, and even here not convincingly. It has not been made clear how the increase in gasoline prices resulting from the oil-import fee (called "gasoline conservation fee") helps fight inflation and how the price impacts throughout the economy advance national security. Thus, use of the national-security clause for actions that have not been fully explained in national-security terms is not the "truth in packaging" that national policy formation should entail.

The President is not the only one at fault in these failings. The Congress shares this responsibility in the serious errors of omission that have characterized the national-security clause since 1955 (a quarter-century ago) when this provision was appended to the old trade agreements legislation. Congress required only that, if imports of a product are found to impair national security, the President must "adjust" these imports. There was no requirement, and there is none now, that import controls found necessary for national-security purposes must be part of a coherent, comprehensive, industry-adjustment strategy addressing the real problems and needs of the particular U.S. industry in the context of strengthening the mobilization base and the overall national security. Nor was there, or is there now, a requirement that Presidential action under the national-security clause must be systematically reviewed by the President and the Congress to ensure the adequacy of measures aimed at advancing the national security.

I waged a lonely fight, while the Trade Reform Act was before the Congress in 1974, to get the Congress to reform the national-security clause, which I called "a threat to national security" in the sense that simplistic recourse to import control as the only required remedy in these cases tended to divert attention from efforts to determine and solve the real problems of those sectors of the mobilization base. I failed. With my kind of national-security clause in the trade legislation of the 1950's or 1960's, today's energy crisis might have been prevented or at least materially alleviated.

Congress should lose no time in reforming the national-security clause along the lines I have advocated. The propriety of careful Congressional assessment of the new oil-import fee provides a most welcome opportunity to consider these reforms. The legislative veto provision of the recently passed oil-windfall-profits-tax legislation—the authorization of Congressional override of Presidential controls on oil imports—does not in any way provide the reform which I consider essential. That veto provision is as much an example of simplistic gimmickry as the national-security clause itself.

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